



C.R.P.No.2905 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.2905 of 2022

and

C.M.P.No.15774 of 2022

A.Abdul Basith

... Petitioner

Vs.

V.Vishwanathan

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 01.12.2021 made in I.A.No.2 of 2021 in O.S.No.360 of 2020 on the file of the District Munsif Court, Pollachi.

For Petitioner : Mr.V.Anandhamoorthy

For Respondent : Mr.A.S.Vijayaragavan

ORDER

This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition for amendment of the plaint.



C.R.P.No.2905 of 2022

2. The petitioner/plaintiff filed a suit for bare injunction restraining the respondent from interfering with his possession. It was stated by the petitioner in his plaint that he is a tenant under the respondent and the agreed rent was Rs.7,000/- from March 2018.

3. The respondent herein filed a written statement raising a specific plea that the petitioner had been paying a monthly rent of Rs.7,500/- per month from the inception of tenancy. Thereafter, the petitioner has come up with a petition in I.A.No.3 of 2021 seeking amendment of the plaint. By way of amendment application, the petitioner wanted to amend the quantum of rent mentioned in his plaint averment as Rs.7,500/- instead of Rs.7,000/-.

4. The respondent herein filed a counter and resisted the said amendment application on the ground that the petitioner failed to explain why he mentioned the rent as Rs.7,000/- instead of Rs.7,500/-. The Court below dismissed the amendment application mainly on the ground that petitioner failed to show any reason for mentioning incorrect quantum of rent. Aggrieved by the said order, the petitioner has come up by way of this revision.



C.R.P.No.2905 of 2022

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5. The learned counsel for the petitioner submitted that the revision petitioner wants to amend the plaint with regard to the quantum of rent mentioned in the plaint averments and the learned counsel also submitted that the respondent himself admitted in his written statement that the agreed rent was Rs.7,500/- and therefore the petitioner is justified in seeking amendment of the plaint to mention the correct quantum of rent. A perusal of the affidavit filed in support of the amendment application would suggest that the petitioner had mentioned that the quantum of the rent was wrongly mentioned in the plaint averments as Rs.7,000/- instead of Rs.7,500/-.

6. Admittedly, the trial in the suit has not been commenced. It is settled law in respect of pre trial amendment, the Court shall be very liberal in allowing the amendment. In the case on hand, the petitioner specifically pleaded in his affidavit that he had mentioned inadvertently the quantum of rent as Rs.7,000/- per month instead of Rs.7,500/- The respondent admitted that he had been paying Rs.7,500/- from the inception of tenancy. Therefore, merely because inadvertently the quantum of rent is mentioned as Rs.7,000/- in the plaint averments, the amendment application need not be dismissed, especially when it is filed before the



C.R.P.No.2905 of 2022

commencement of the trial. The reasoning given by the Court below for dismissing

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S.SOUNTHAR, J.

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the amendment application is not correct and the same is set aside. Hence, this Civil Revision Petition is allowed. The I.A.No.2 of 2021 filed by the petitioner seeking amendment stands allowed. The petitioner is directed to file an amended copy of the plaint within a period of four (4) weeks from the date of receipt of copy of this order. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

07.11.2022

(2/2)

Index: Yes/ No

Speaking Order / Non-Speaking Order

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To

The District Munsif Court,
Pollachi.



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C.R.P.No.2905 of 2022

C.R.P.No.2905 of 2022