



C.R.P.No.3543 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3543 of 2022

and

C.M.P.No.18852 of 2022

M/s.Shanthi & Co.
represented by its partners,

1.S.Narendra Jain

2.N.Rajmal

3.N.Girish Jain

... Petitioners

Vs.

Babulal Jain

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 21.06.2022 passed in M.P.No.3 of 2021 in R.C.O.P.No.703 of 2016 before Hon'ble XIII Small Causes Court, Chennai.

For Petitioners : M/s.Tushitha B
for Tanya Kapoor

For Respondents : No Appearance.



C.R.P.No.3543 of 2022

ORDER

This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioners seeking to reject amendment carried out by the respondent dated 09.08.2017 and also to direct the respondent to implead the partners of the petitioners firm namely M/s.Shanthi & Co., individually.

2. The respondent herein filed a petition for eviction of petitioners on the ground of owner's occupation. Initially the petitioners firm was represented by only one of the partner namely Narendra Jain in R.C.O.P.No.703 of 2016.

3. The petitioners herein filed a counter wherein they raised non-joinder of other partners of the firm as one of the ground of objection. Thereafter, the respondent herein filed an application to amend the cause title in the main R.C.O.P.No.703 of 2016, so as to include the names of the other two partners of the firm namely N.Rajmal and N.Girish Jain in M.P.No.137 of 2017. The petitioners herein failed to file any counter and raise objection before the Court below for the petition filed by the respondent in I.A.No.137 of 2017. Finally, the said I.A.No.137 of 2017 was allowed on 28.07.2017. Pursuant to the said order,



C.R.P.No.3543 of 2022

the respondent filed an amended original petition incorporating the names of all the three partners of the petitioners firm namely M/s.Shanthi & Co. The amendment was carried out as early as on 2017.

4. Now after three years from the date of amendment, the petitioners herein filed an application seeking to reject the amendment on the ground that the respondent should not have impleaded all the partners as representatives of the firm but he should have impleaded the partners in their individual capacity. The said application was dismissed by the Court below on the ground that it is not open to the petitioners to object the amendment nearly after 5 years.

5. The learned counsel appearing for the petitioners vehemently contended that the respondent ought not to have shown the partners as representatives of the firm and the respondent should have impleaded the partners in their individual capacity. A reading of the pleadings and connected records would make it clear that the petitioners firm namely M/s. Shanthi & Co, consist of three partners. Though, the firm is not a corporate personality, it may sue or be sued in firm's name. In order to avoid the controversy, the respondent also included the names of all the partners in the cause title. The amendment was carried out in



C.R.P.No.3543 of 2022

S.SOUNTHAR, J.

jai

WEB COPY

the year 2017 by the respondent and the objection made by the revision petitioners is hyper technical and it has no justifiable basis.

6. It is settled law in case of partnership business, each partner is deemed to be a principal as well as agent for the other partners. Therefore, mentioning of single partner is sufficient to proceed with the case but in the case on hand, the respondent mentioned the names of all the partners and consequently, I do not find any error in the order passed by the Court below. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.11.2022

Index: Yes/ No

Speaking Order / Non-Speaking Order

jai

To

The XIII Small Causes Court,
Chennai.

C.R.P.No.3543 of 2022