



C.R.P.(P.D).No.4090 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

C.R.P.(P.D) No. 4090 of 2022

Marudhamuthu (DECEASED)

[Cause title accepted vide Court order dated 23.11.2022 made in
CMP.No.19845/2022 in CRP.Sr.No.116029/2022 by SSJ]

1. M.Meena

2. M.Venkatesa Perumal

3. M.Vijayalakshmi

... Petitioners/Petitioners/Plaintiffs

Vs.

K.Kumarasamy Pillai (Since Deceased)

[The 2nd respondent was struck out by the Hon'ble Court of District Munsif
Judge at Ambattur in I.A.No.1117 of 2018 in O.S.No.2284 of 2017 as per
the order in I.A.1/2019 dated 31.01.2019]

1. The Sub Registrar,
Villivakkam Sub Registrar Office,
30/8, Shanthi Nagar Main Road,
Korattur, Chennai-600 080.
2. The District Collector,

1/6



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Thiruvallur District, Thiruvallur.

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3. Anupriya,
W/o K.Kumarasamy Pillai.
4. Syndhiya,
D/o Kumarasamy Pillai.
5. Minor.Dharshini,
D/o K.Kumarasamy Pillai,
Rep by her natural guardian and her mother Arupriya

... Respondents/Respondent/Defendants

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to dispose off the I.A.No.8 of 2022 in O.S.No.284/2017 expeditiously without insisting for notice to be served on Respondents 3 to 5 in the said I.A.No.8/2022 in O.S.No.284/2017.

For Petitioner : Mr.I.John Arockiadas

ORDER

The fair and decreetal order passed in I.A.No.8 of 2022 in O.S.No.284 of 2017 dated 28.07.2022 is under challenge in the present revision petition.



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2.The revision petitioners / plaintiffs instituted the suit for specific performance. Defendants 5 to 7 were already set ex-parte in the main suit itself after completing the procedures contemplated under the Code of Civil Procedures. At that juncture, the plaintiffs filed I.A.No.8 of 2022 for carrying out certain corrections in the plaint prayer. Accordingly, the proposed amendment states that there was a typographical mistake in the prayer column of the Judgement and Decree and the plaintiffs want to add the following phrase; “failing which this Hon’ble Court may be pleased to”.

3.With reference to the said interlocutory application, the Trial Court ordered notice once again to the respondents 5 to 7. The learned counsel for the revision petitioner mainly raised an objection by stating that the defendants 5 to 7 were already set ex-parte in the main suit and the said order of ex-parte was passed after completing the procedures as contemplated and after effecting paper publication. While so, for carrying out certain corrections in the Judgement and Decree, in the rectification of mistake, the said procedure need not be repeated which would cause prejudice to the interest of the plaintiffs.



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4.The rules of natural justice are to be followed to ensure that parties to the litigation get fair opportunity to establish or defend their case. It need not be an empty formality. There is no rigid principle regarding compliance with the rules of natural justice. It is the procedure to be regulated based on the facts and circumstances so as to ensure that fair opportunity is afforded to all the parties enabling them to present their respective cases.

5.In the present case, the defendants 5 to 7 in the main suit were already set ex-parte by following the procedures as contemplated under the Code of Civil Procedure. The interlocutory application filed by the plaintiffs is only to rectify the mistake and carry out certain corrections and the nature of corrections, if at all carried out in the Judgement and Decree, would not cause any prejudice to the interest of the defendants 5 to 7, who were already set ex-parte. The mistake is sought to be corrected which is residuary in nature and therefore, this Court is of an opinion that further order repeating the notice to the ex-parte respondents 5 to 7 would increase the longevity of the litigation, but would not cause prejudice to them.



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6.Thus, notice to the defendants in the interlocutory application becomes unnecessary and such mistakes can be corrected in all circumstances by the parties and Courts need not unnecessarily lengthen the procedures for rectification of such mistakes or corrections or inclusion of such words which were mistakenly stated in the Judgement and Decree or in the written statement. In view of the facts and circumstances, the order dated 28.07.2022 passed in I.A.No.8 of 2022, in O.S.No.284 of 2017, is set aside and the Trial Court is directed to carry out the amendments as sought by the revision petitioners / plaintiffs.

7. Accordingly, the civil revision petition stands **allowed**. No costs.

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09.12.2022

Index:Yes/No

Internet:Yes/No

Speaking Order: Yes/No



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S.M.SUBRAMANIAM.J.,

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To

1. The Sub Registrar,
Villivakkam Sub Registrar Office,
30/8, Shanthi Nagar Main Road,
Korattur, Chennai-600 080.

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