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CRP.(PD).No. 3720 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2022

CORAM:

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

CRP.(PD).No.3720 of 2017

and

C.M.P.No. 17256 of 2017

1.Kaliannan

2.Subbarayan (Deceased)

...Petitioners

Versus

1. Thangammal

2. Kuppusamy

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order, dated 07.08.2017 passed in I.A.No.352 of 2015 in O.S.No.207 of 2013 on the file of District Munsif Court, Paramathi.

For Petitioners : Mr.S. Senthil

For Respondents : No Appearance



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ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order, dated 07.08.2017 passed in I.A.No.352 of 2015 in O.S.No.207 of 2013 on the file of District Munsif, Paramathi.

2.The learned counsel appearing for the revision petitioners/plaintiffs submitted that the petitioners/plaintiffs came to know that, at the time of filing of written statement, all the new factual aspects are contrary to the facts of the case. Therefore, it is necessary to file a reply statement for cross examination of DW1. Hence, he prays to allow the above revision.

3.Though the names of the respondents are printed in the cause list, when the matter is taken up for hearing, there is no representation for them either through counsel or in person.

4.Heard the learned counsel appearing for the revision petitioners/plaintiffs and perused the materials available on record.



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5. On a perusal of the records, it reveals that the petitioners/plaintiffs filed the suit in O.S.No.207 of 2013 before the District Munsif, Paramathi, for the relief of permanent injunction. The defendants contested the aforesaid suit by filing written statement. Issues have been framed and trial has also commenced. PW1 to PW3 have been examined on the side of the plaintiffs and the plaintiffs' side evidence is over. At the time of cross-examination of DW1, the petitioners/plaintiffs filed I.A.No.352 of 2017 under Section 151 of CPC., seeking to file reply statement and the same was strongly objected to by the contesting respondents/defendants. After perusing the relevant records, the Court below dismissed the said application by order dated 07.08.2017 holding that no proper reason was assigned by the petitioners/plaintiffs. Aggrieved by the same, the present revision is filed.

6. It is also seen that the Court below has failed to consider the stage of the suit and while cross examining the first defendant, who had filed proof affidavit, the petitioners/plaintiffs ought to have examined him regarding the contentious pleas raised in the written statement filed by the defendants. In such circumstances, unless there is a denial of pleading,



suggestions cannot be put forth to DW1 and therefore, it is necessary to file reply statement to proceed with the case. Hence, no prejudice would be caused to the respondents/defendants herein if this revision petition is allowed. Therefore, this Court is inclined to allow this revision by setting aside the impugned order.

7. Accordingly, the Civil Revision Petition is allowed. The order dated 07.08.2017 passed in I.A.No.352 of 2015 in O.S.No.207 of 2013 on the file of District Munsif, Paramathi, is hereby set aside. Further, the Court below is directed to dispose of the suit itself within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

08.11.2022

msm

Speaking Order : Yes/No

To

The District Munsif, Paramathi.



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T.V.THAMILSELVI, J.

msm

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