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C.R.P. No.887 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P.No.887 of 2017
and C.M.P.No.4362 of 2017

- 1.V.Rani
2. J.Hemalatha
3. K.Chitra Devi
4. V.Karthikeyan
5. V.Sivasankaramoorthy
6. M.Jawagar

...Petitioners

Vs.

1. S.K.Srinivasan
- T.Gopalasamy (died)
- RM.Chockalingam (died)
2. Dr.C.G.Naratajan
3. G.Kasthuri
4. G.Ramesh Babu
5. G.Suresh
- 6.Sabitha Parthiban

... Respondents



C.R.P. No.887 of 2017

PRAYER: Civil Revision Petition filed under article 227 of Constitution of India, praying to set aside the fair and final order passed in I.A.No.91 of 2017 in O.S.No.284 of 2004 on the file of IIIrd Additional District Court, Salem dated 21.02.2017 and allow the Civil Revision Petition.

For Petitioners	: Mr.A.Sundaravadhanan
For R1	: Mr.K.Selvakumar
	For Ms.Veerasuresh
For R2	: Door Locked
For R3 to R6	: No appearance

ORDER

This Civil Revision Petition has been filed by the petitioners challenging the impugned order passed in I.A.No.91 of 2017 in O.S.No.284 of 2004 on the file of IIIrd Additional District Court, Salem dated 21.02.2017.

2. The original suit in O.S.No.284 of 2004 filed by the plaintiff for the relief of recovery of possession from the first defendant and other consequential reliefs.



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3. The first defendant contested the suit. During the pendency of the suit, the first defendant was died his legal heirs were impleaded as defendants 10 to 15 in the suit in I.A.No.891 of 2007 dated 29.08.2007. Thereafter, the trial Court had examined DW1, the plaintiff filed an application under Order 6 Rule 17 to amend the prayer column by strikeout the first defendant name and add the defendants 10 to 15. The said application was strongly objected by the defendants stating that the plaintiff to drag on the proceedings, the said application was filed after examination of the plaintiff and the same cannot be permitted.

4. Considering the both side submissions, the trial Judge allowed the application held that neither the amendment would not cause any hardship to the parties nor it would change the character of the suit. By relying the Judgment reported in B.K.N.Pillai vs P.Pillai (Supreme Court of India) Civil Appeal No.7222-23 of 1999 is extracted hereunder

"It is true that the amendment cannot be claimed as a matter of right and under all circumstances. But it is equally true that the courts while deciding such prayers should not adopt hypertechnical approach. Liberal approach should be the general rule particularly in cases where the other side can be compensated with the costs. Technicalities of



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law should not be permitted to hamper the courts in the administration of justice between the parties. Amendments are allowed in the pleadings to avoid uncalled for multiplicity of litigation."

5. The learned counsel for the revision petitioners argued that the trial Court failed to take note of the fact that when the amendment was carried in the year 2007 but the plaintiff was not complied with. Thereafter, they come forward with the present I.A.No.91 of 2017 to amendment in the prayer column and after completion of the evidence to fill up the lacuna, they come forward with such application and the same was allowed by the trial Court as such is totally erroneous and unjust liable to be set aside.

6. By way of reply, the learned counsel for the respondent/plaintiff submitted that inadvertently the said mistake was committed to amend the prayer column, the such amendment also not change the character of the suit which was rightly appreciated by the trial Court. Hence, he prayed to dismiss the revision petition.

7. On perusal of the records, it reveals that the suit in O.S.No.284 of 2004 was filed by the plaintiff for recovery of possession from the first



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defendant. During the pendency of the suit the first defendant died, naturally his legal heirs were impleaded as defendants 10 to 15 in the year 2007 in I.A.No.891 of 2007. But at that time, in the prayer column the defendants 10 to 15 have not been amended. Now, after commencement of the trial, they come forward with application to amend the prayer column of the said application. Therefore this Court is of the view that it is necessary to amend the prayer to implead the defendants 10 to 15 in the prayer of the suit. Moreover, if the prayer column is not amended, in future the parties concerned are not able to execute the decree because the first defendant was already died. Therefore, the findings given by the trial Judge is maintainable, which needs no interference.

8. Considering the pendency of the suit from the year 2004, the plaintiff is directed to co-operate with the proceedings. Accordingly, the Civil Revision Petition is dismissed with costs. The respondents are directed to pay a sum of Rs.3000/- to the petitioners within a period of two weeks from the date of receipt of copy of this order. Further, the trial Court is directed to dispose the case within a period of three months from the date of



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receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

15.11.2022

Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
msrm

To

The IIIrd Additional District Court, Salem.



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T.V.THAMILSELVI, J.

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