



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :10.03.2022

CORAM:

WEB COPY

THE HONOURABLE MRS. JUSTICE S.ANANTHI

C.R.P (MD) .No.450 of 2022

and

C.M.P (MD) No.1988 of 2022

1.Arumai Packiam Manuel Charitable Trust
Rep.by its Trustees,
Agasteeswaram & Post,
Agasteeswaram Village and Taluk,
Kanyakumari District.
2.N.Isaac Daniel
3.N.Bright Livingston ... Petitioners/Plaintiffs

Vs.

1.N.Justin
2.M.Rajasekaran
3.K.Xavier
4.C.Arputharajan
5.J.Titus Livingston
6.Catherine Selvabai
7.S.Chandrasekaran ... Respondents/Defendants

PRAYER : This Civil Revision Petition is filed under Section 227 of the Constitution of India, to call for the records relating to the fair and decreetal order dated 11.01.2022 passed in I.A.No.10 of 2021 in O.S.No.223 of 2012 on the file of the II Additional Subordinate Judge at Nagercoil and set aside the same by allowing the Civil Revision Petition.

For Petitioner : Mr.D.Saravanan

O R D E R

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 11.01.2022 passed in I.A.No.10 of 2021 in O.S.No.223 of 2012 on the file of the learned II Additional Subordinate Judge, Nagercoil.

2.I.A.No.10 of 2021 was filed by the revision petitioners/plaintiffs under Order VI Rule 17 and Section 151 of Civil Procedure Code, to amend the plaint regarding Court fee, which was dismissed by the learned II Additional Subordinate Judge, Nagercoil, on the ground that already evidence was over and posted for reply argument. Already the respondents/defendants have raised



objection about Court fee in their written statement and also during trial. But the revision petitioners/plaintiffs did not take any steps to amend the plaint at early stage. But paying of Court fee, he filed a petition to amend the plaint. The suit is for declaration of title and for injunction. So the revision petitioners/plaintiffs have to pay the Court fee under Section 125 of the Tamil Nadu Court fee Act. The Court can find out the defect before it was numbering. This amendment has not vary the pleadings taken by the defendants. Only the Court can find out the mistake and also to direct the revision petitioners/plaintiffs to pay proper Court fee, But the Court not done so. However, this will not affect the right of respondents/defendants.

3.Since no order is going to be passed against the respondents, notice to the respondents is dispensed with.

4.In view of the above, this Civil Revision Petition is allowed and the fair and decreetal order dated 11.01.2022 made in I.A.No.10 of 2021 in O.S.No.223 of 2012 passed by the learned II Additional Subordinate Judge, Nagercoil is set aside on condition that the petitioner should not seek time to drag on the matter or to re-open the case for further evidence. The petitioner is directed to pay the proper Court fee within a period of 15 days from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

The II Additional Subordinate Judge,
Nagercoil

+1 CC to M/s.D.SARAVANAN, Advocate (SR-11352[F] dated 10/03/2022)
C.R.P(MD).No.450 of 2022
and
C.M.P(MD)No.1988 of 2022
10.03.2022