



CRP(PD)No.2177 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.2177 of 2022 and
CMP(MD) No.10117 of 2022

1.Balaganesan
2.Chinnakani
3.Saraswathi
4.Sivarajakani
5.Lingasudalai

Petitioners

Vs

1.Ananda Kumaran
2.Ananda Ruba
3.Ananda Prasad
4.Uma Maheswari
5.Rajaram Marthandan Nadar

Respondents

Prayer : Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.364 of 2018 in O.S.No.15 of 2016, on the file of the Sub Court, Valliyoor.

For Petitioner : Mr.R.Balakrishnan



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ORDER

The petitioners/defendants 1,3 to 6 in O.S.No.15 of 2016 on the file of the Sub Court, Valliyoor have filed I.A.No.364 of 2018, for filing additional written statement in O.S.No.15 of 2016, which was rejected by the trial Court. Aggrieved over the same the present Civil Revision Petition is filed.

2.The learned counsel appearing for the petitioners/defendants submits that on the very same subject, a suit in O.S.No.27 of 2015 is pending before the District Munsif Court, Valliyoor for the relief of permanent injunction. This fact has not been incorporated in the earlier written statement filed by the defendants in O.S.No.15 of 2016 and it is only an inadvertent mistake. Therefore the application filed by the petitioners/defendants in I.A.No.364 of 2018, to receive additional written statement has to be allowed.



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3.This Court considered the submissions made by the petitioner's counsel and also perused the materials placed on record.

4.Admittedly, the suit in O.S.No.15 of 2016 has been filed by the plaintiffs as against the petitioners/defendants for the relief of declaration and for permanent injunction. The first defendant filed a written statement on 17.10.2016 and the same was adopted by the defendants 2 to 5. According to the petitioners, they failed to mention about the pendency of the suit in O.S.No.27 of 2015 on the file of the District Munsif Court, Valliyoor on the very same subject and certain other facts in the earlier written statement. Hence, they have filed the interlocutory application in I.A.No.365 of 2018 before the Sub Court, Valliyoor to receive additional written statement. The learned Subordinate Judge dismissed the application holding that there is no proper and valid reasons as to why the facts mentioned in the additional



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written statement have not been incorporated in the earlier written statement filed by them and also the additional written statement was filed belatedly, for which also, they have not assigned any reasons and dismissed the application.

5.This Court finds no error in the order of the learned Subordinate Judge, Valliyoor and this Court is not inclined to interfere with the order. However, the petitioners are at liberty to file necessary application to transfer the suit in O.S.No.23 of 2015 pending on the file of the District Munsif Court, Valliyoor to the Sub Court, Valliyoor. On such application, the Court concerned shall transfer the suit in O.S.No. 23 of 2015 to the Sub Court, Valliyoor. The Subordinate Judge, Valliyoor shall try both the suits and dispose of the same on his own merits and in accordance with law at the earliest.



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6. Accordingly, this Civil Revision Petition is dismissed.

No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No.

Internet : Yes / No.

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To

The Sub Court, Valliyoor.



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B.PUGALENDHI, J.

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Order made in
CRP(PD)(MD)No.2177 of 2022 and
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