



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S. ANANTHI

CRP(MD).No. 2227 of 2019 and
CMP(MD).No.11569 of 2019

1.R. Maharaj Nadar
2.Sri. Arulmighu Pathirakaliamman Thirukovil,
rep. by its Trustee,
R.Maharaj Nadar

3.Arulmighu Sakthi Vinayagar Thirukovil,
rep. by its Trustee
R. Maharaja Nadar

4.Arlumighu Narayanasamy Thirukoil,
rep. by its Trustee,
R. Maharaja Nadar

5.Arulmighu Oorkaval Perumal Koil,
rep. by its Trustee,
R. Maharaja Nadar

.. petitioners / Plaintiff

Vs.

1. S. Dhanapaul
2. Duraisamy
3. Rajamani
4. Chelladurai
5. Sudalaimani
6. Baskar
7. Gobi

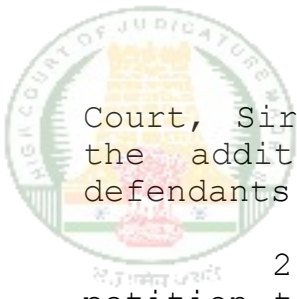
.. Respondents / Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 24.10.2019 passed in I.A.No.20 of 2019 in O.S.No.188 of 2015 on the file of the District Munsif Court, Sirvaikundam.

For Petitioner ... Mr. V. Meenakshi Sundaram

ORDER

The revision petitioners, who are the plaintiffs, have filed this revision to set aside the order passed in I.A.No.20 of 2019 in O.S.No.188 of 2015 on the file of the District Munsif



Court, Srivaikundam, which was filed by the petitioners to scrap the additional written statement filed by the respondents / defendants except the portion at para 11, lines 8 to 16.

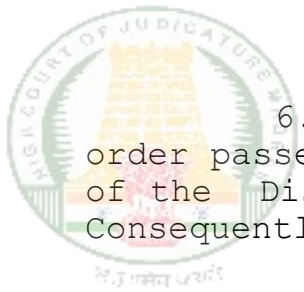
2. The respondents / defendants have already filed a petition to receive the additional written statement in I.A.No.6 of 2019, which was dismissed by the learned District Munsif on the following grounds:

"6. This Court is inclined to note that, the learned counsel appearing for the petitioner contended that the additional written statement could be presented by the petitioner herein and only condition prerequisite is that, the assent of the Court should be obtained regarding the same. This Court is inclined to note that, admittedly the additional written statement filed by this petitioner is in consonance with the proof affidavit of DW1 already lying before this Court which clearly shows that pleadings are moulded after evidence is let in. The present suit is in the stage of cross examination of DW1 at which time, these petitioners have come forward with the present application and filed an additional written statement and no reason has been offered for non pleading such facts earlier. This Court considering the fact that there is no reason stated by the petitioner for non-pleading of such facts in the written statement filed earlier is of the view that, the present application of the petitioner cannot be permitted."

3. Again the revision petitioners / plaintiffs filed a petition for amendment to include the temple as plaintiff that was allowed. After the amendment the respondents / defendants filed a written statement in which their pleadings are same as in the written statement which was earlier rejected by the District Munsif. Already the petition to receive the Additional Written was dismissed on the specific ground that the respondents / defendants have not filed any appeal against the order passed in I.A.No.6 of 2019 and hence, the said order has become final. Now, the respondents / defendants cannot file the same written statement for the amended of plaint.

4. Today, there is no representation for the respondents side either in person or through counsel.

5. The learned District Munsif, Srivaikundam without considering the earlier dismissal order passed in I.A.No.6 of 2019 allowed the application for filing of written statement in I.A.No.20 of 2019. Hence, this Court is inclined to scrap the written statement except the portion at para 11, lines 8 to 16.



6. Accordingly, this Civil Revision is allowed and the order passed in I.A.No.20 of 2019 in O.S.No.188 of 2015 on the file of the District Munsif Court, Sirvaikundam is set aside. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

trp

To

The District Munsif Court, Sirvaikundam.

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-7817[F] dated 22/02/2022)

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