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C.R.P.No.993 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2023

CORAM:

THE HONOURABLE Dr. JUSTICE D. NAGARJUN

Civil Revision Petition.No.993 of 2023
Civil Miscellaneous Petition.No.7296 of 2023

1.Erode Tyres

A partnership firm
Door No.136/1&2, Perundurai Main Road,
Erode Taluk,
Erode District.
Rep by its partner
S.Gomathi F/A51
W/o.N.Srinivasan
Door No.93, K.N.K Road,
Karungalpalayam, Erode-638 003.

2.S.Gomathi

... Petitioners

Vs.

1.S.Subramaniam

2.N.Srinivasan

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India seeking to set aside the fair and decreetal order dated 12.01.2023 made in C.F.R.No.6925 of 2022 in E.P.No.11 of 2022 in R.C.O.P.No.10 of 2014 on the file of the I Additional District Munsif Court, Erode.

For Petitioners	: M/s.R.Shasee for Mr.M.Guruprasad
For Respondents	: Mr.S.Kaithamalai Kumaran



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ORDER

WEB COPY This Civil Revision Petition is filed aggrieved by the order dated 12.01.2023 made in C.F.R.No.6925 of 2022 in E.P.No.11 of 2022 in R.C.O.P.No.10 of 2014 on the file of the I Additional District Munsiff Court, Erode.

2. The application filed by the petitioner under Order 21 Rule 97 to implead them as parties has been rejected by the I Additional District Munsiff Court, Erode, vide Order dated 12.01.2023 in C.F.R.No.6925 of 2022, without affording them opportunity, thereby the petitioners are before this Court by way of this revision

3. It is submitted by the learned counsel for the petitioners that originally first petitioner's firm has taken premises on lease from the first respondent, in which the second petitioner and the mother of the second petitioner are also partners. The first respondent, owner of the property came to file R.C.O.P.No.10 of 2014 for eviction only against the second respondent. The said petition was allowed, directing him to vacate the premises. Aggrieved by the same, second respondent had preferred an appeal wherein, the petitioners and other partners made an application to implead



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them as parties. In the meanwhile, the first respondent has filed E.P.No.11 of 2022 for execution of orders in R.C.O.P.No.10 of 2014. The petitioners have filed C.F.R.No.6925 of 2022 under Order 21 Rule 97, for impleading them as parties, however the said application was rejected. It is submitted by the learned counsel for the petitioners that since property has been leased in favour of the petitioners firm without impleading the members of the firm, filing a petition for eviction is erroneous, thereby the said order cannot be implemented.

4. It is further submitted by the learned counsel for the petitioners that when an application is filed under Order 21 Rule 97, the trial Court ought to have made an enquiry under Order 21 Rule 101 by affording opportunity to all the parties concerned.

5. Per contra, the learned counsel for the respondents has submitted that whatever objection raised by the revision petitioners under Order 21 Rule 97 should have been made either in the main petition or in the appeal and he is not permitted to make his submissions under Order 21 Rule 97.



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Dr. D. NAGARJUN, J.

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6. Heard the learned counsel for the petitioners and the learned counsel for the respondents and perused the material available on record.

7. Considering the circumstances, without going into the merits of the case, this Court is inclined to remand the matter back to the file of the trial Court with a direction to number the C.F.R.No.6925 of 2022 by giving an opportunity to all the parties concerned, if necessary to the other partners of the first petitioner's firm and dispose of the same as expeditiously as possible, preferably not later than by the end June. Until then, there shall be an order of interim stay in the proceedings in E.P.No.11 of 2022 in R.C.O.P.No.10 of 2014 on the file of the I Additional District Munsiff Court, Erode and both the parties are directed to maintain status quo till then

8. Accordingly, this Civil Revision Petition is disposed of with above direction. No costs. Consequently, connected Civil Miscellaneous Petition No.7296 of 2023, is closed.

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19.04.2023

To

The I Additional District Munsif Court, Erode.

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