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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

CRP.No. 2508 of 2023
and
CMP No. 15540 of 2023

1.Sangeetha
2.D.Rajesh … Petitioners

Versus

M/s. Saravana Karaikudi Chettinadu Mess
Represented by its Partner V. Arumugam … Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India prays to set aside the order dated 20.02.2023 passed in IA.No. 2 of 2019 in OS.No. 138 of 2018 by the learned XI Assistant City Civil Court, Chennai.

For Petitioner : Mr.R. Kamaraj

ORDER

This Civil Revision Petition is filed seeking to set aside the

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order dated 20.02.2023 passed in IA.No. 2 of 2019 in OS.No. 138 of 2018 by the learned XI Assistant City Civil Court, Chennai.

2. The brief facts of the case are that the the respondent/plaintiff has filed the suit in O.S.No. 138 of 2018 before the XI Assistant City Civil Court, Chennai, seeking permanent injunction and mandatory injunction against the petitioners/defendants. The petitioners/defendants contested the suit by filing written statement denying all the averments made in the plaint. While pending the suit, the petitioners/defendants have filed IA.No. 2 of 2019 in OS.No. 138 of 2018 under Order 8 Rule 9 of CPC., seeking to accept the additional written statement filed by the defendants. After perusing the records, the trial Court dismissed the application by order dated 20.02.2023. Challenging the said order, the petitioners/defendants have come forward with the present Civil Revision Petition.

3. According to the petitioners, the above suit was posted for cross examination of PW1 on 06.07.2023. The petitioners advised to state that without denying the relief no.2 i.e., mandatory injunction, the petitioners deprived of their opportunity to contest the case in an effective manner. Immediately thereafter, the petitioners came to know that the omission of

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denying the relief no.2, the petitioners filed the application and as such, their application is a bonafide one. However, the Court below dismissed the application. Hence, the petitioners pray to set aside the findings of the Court below.

4. Heard the learned Counsel for the petitioner and perused the materials available on record.

5. On a perusal of the records, it reveals that the petitioners had already filed an application in IA.No. 528 of 2018 seeking rejection of plaint, which was rightly rejected on 12.12.2018 by the Court below and thereafter, the matter was posted for trial. After commencement of the trial, the present application has been filed on 30.11.2019, this is another way of creating obstruction to drag on the trial. It is made clear that the present application filed by the petitioners for receiving additional written statement only with an intent to prolong the matter without legally valid reasons. Originally, the petitioners filed the written statement on 26.04.2019, and filed an additional written statement along with the present application on 30.11.2019 after expiry of seven months with exorbitant delay. While that being the case, the Court below already framed the issues and the matter was posted for trial, in

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which proof affidavit of PW1 was filed and the matter was posted for marking of documents. Therefore, the above application was filed by the petitioners/defendants only for filled up the lacuna in their written statement pleadings. Hence, the application is frivolous, vexatious, devoid of merits and has been contrived to harass the respondent/plaintiff and also prolong the proceedings of the case and there is no valid reason for allowing this Revision. The Court below has rightly dismissed the application and therefore, all the aspects have to be considered at the time of trial by letting evidence and it is for the petitioners to prove their case before the Court below. There is no merit in the above Revision and the same is liable to be dismissed.

6. Accordingly, the Civil Revision Petition is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

21.07.2023

Index: Yes/No
Speaking order/Non-speaking order
Neutral Citation: Yes/No
MSM
To

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1. The XI Assistant City Civil Court, Chennai.

2. The Section Officer, V.R. Section,
High Court, Madras.

V.BHAVANI SUBBAROYAN, J.

MSM

C.R.P.No. 2508 of 2023

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