



CMP.No.22581 of 2023 in AS.No.35 of 2012

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G.K.ILANTHIRAIYAN, J

This miscellaneous petition has been filed under order VI Rule 17 of CPC to permit the petitioners to amend the plaint in O.S.No.271 of 2007 on the file of the Additional District and Sessions Judge, Tiruvallur now pending in A.S.No.35 of 2012 pending before this court by permitting the petitioners/Appellants to amend the prayer in Para 16(i).

2. On perusal of the records, revealed that the petitioners/appellants are the plaintiffs, who filed suit for specific performance in respect of the subject property in O.S.No.271 of 2007 on the file of the Additional District & Sessions Judge, Fast Track Court-III, Tiruvallur. However, the said suit was dismissed. Aggrieved by the same, the petitioners/appellants preferred appeal suit before this Court.

3. Mr.M.S.Subramanian, learned counsel appearing for the 2nd respondent filed his counter affidavit and stated that the petitioners are in absolute possession of the property ever since from the date of the sale



CMP.No.22581 of 2023 in AS.No.35 of 2012

agreement is not correct. There was no handing over possession in pursuance of the suit agreement. The learned trial court has found the property as vacant land, the petitioners after obtaining interim injunction constructed the shed in the property. The subject property has been notified for acquisition and compensation is yet to be determined. This present application has been filed with false averments. This petition for amendment at this stage is not maintainable and having regard to the fact that the compensation is to be determined, this application is filed to make unjust enrichment. Therefore, he prays for the dismissal of the present miscellaneous petition.

4. Heard, the learned counsel appearing for the petitioner and the second respondent and perused the records.

5. Being satisfied with the reasons stated in the affidavit filed in support of the petition, this miscellaneous petition is allowed.

19.12.2023
(1/2)

Index : Yes / No
Internet : Yes / No
Speaking order /Non-speaking order
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CMP.No.22581 of 2023 in AS.No.35 of 2012

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