



**CMP.No.4177 of 2023**  
**in CMP.No.18451 of 2022**  
**in CRP.No.2300 of 2018**

**J. SATHYA NARAYANA PRASAD, J.**

The civil miscellaneous petition has been filed to delete the error or accidental mistakes or defect which has been crept in Paragraph No.13 and particularly in lines about 10 and 12 of the amended order, dated 24.11.2022 made in CMP.No.18451 of 2022 in order dated 23.12.2021 made in CRP.(PD) No.2300 of 2018 as amended by order dated 18.02.2022 on the file of this Court and substitute as detailed in the schedule hereunder and amend the same in accordance with law.

2. The learned counsel for the petitioner submitted that in the above Civil Revision Petition made in CRP.(PD).No.2300 of 2018 and its connected matter made in CRP (PD) No.4277 of 2017 a Common order dated 23.12.2021 was passed by this Court and which was amended by this Court by order dated 18.02.2022 with regard to jurisdiction of the lower Court, which has been wrongly typed as “Cheyyar” instead of “Cheyyur”. The learned counsel for the petitioner further submitted that aggrieved against the said common order dated 23.12.2021 made in CRP(PD).No.2300 of 2018 and its connected matter made in CRP(PD)



No.4277 of 2017 the petitioners have filed Special Leave Appeal(s) before the Hon'ble Apex Court in Special Leave to Appeal (C) No.(S). 11446 – 11447 of 2022. The Hon'ble Apex Court was pleased to pass the following order dated 22.07.2022 in the above appeal.

*“Having heard learned counsel for the petitioner, we are not inclined to interfere with the impugned judgment and order passed by the High Court of Madras, except to observe that the petitioners shall be at liberty to seek amendment of O.S.No.150 of 2013, if so permissible, in accordance with law.*

*“The Special Leave Petitions are accordingly dismissed. Pending application(s), if any, shall stand disposed of”.*

3. He further submitted that the 1<sup>st</sup> respondent herein has filed CMP.No.18451 of 2022 to seek amendment in the order dated 24.11.2022 made in CRP.No.2300 of 2018 and the same was amended by order dated 18.02.2022 by this Court and the relevant paragraphs are extracted hereunder:-

*“28. It is submitted that both the suits were transferred to Judicial Magistrate-cum-District Munsif at Cheyyur and O.S.No.150 of 2013 is re-numbered as O.S.No.48 of 2020 and O.S.No.294 of 2013 is re-numbered as O.S.No.54 of 2020.*

*29. For the reasons stated, I.A.No.2324 of 2017 in O.S.No.294 of 2013 is allowed and plaint in O.S.No.294 of*



*2013, now re-numbered as O.S.No.54 of 2013 on the file of the Judicial Magistrate cum District Munsif, Cheyyur is rejected”.*

4. The learned counsel for the petitioner further submitted that the petitioner has filed a detailed counter affidavit dated 21.10.2022 along with the typed set of papers by raising a plea that the petition made in the above CMP.No.18451 of 2022 in CRP (PD).No.2300 of 2018 filed by the 1<sup>st</sup> respondent is not maintainable in law which amounts to “Functus Officio” and cannot reopen the case. While passing the order dated 18.02.2022 amending the order passed by this Court on 23.12.2021 in Paragraph No.13 it is stated by this Court that the Hon'ble Apex Court gave liberty to amend in O.S.No.150 of 2013 and not to seek amendment of O.S.No.150 of 2013 in O.S.No.294 of 2013, being reason that the Special Leave to Appeal (C) No.11446 against C.R.P. (PD)No. 2003 of 2018 against I.A.No.2324 of 2017 in O.S.No.294 of 2013 was filed by the petitioners herein in the Hon'ble Apex Court and apart from that no relief was prayed by the petitioners herein in the Hon'ble Apex Court with regard to amendment of O.S.No.150 of 2013 either in the lower Court or in this Court from the Hon'ble Apex Court and it amounts to an error or accidental mistakes or defect arising in the above order dated



5. The respondent has also filed the counter affidavit dated 27.11.2023.

6. The learned Senior Counsel appearing for the respondent submitted that the respondent has filed I.A.No.2324 of 2017 in O.S.No.294 of 2013 on the file of the District Munsif Court, Madhuranthagam. The relevant paragraphs of the counter affidavit are extracted as below:-

***3. I humbly submit that I filed IA.No.2324 of 2017 in O.S.No.294 of 2013 on the file of the District Munsif Court at Madhuranthakam to reject the plaint, since it is hit by Order II Rule 2 of the Civil Procedure Code.***

***4. I humbly submit that the learned District Munsif Court by its order dated 07.04.2018 has been pleased to dismiss I.A.No.2324 of 2017 in O.S.No.294 of 2013. Aggrieved against the order passed in I.A.No.2342 of 2017, I filed CRP.No.2300 of 2018 before this Hon'ble Court.***

***5. I humbly submit that pending CRP, the above suit O.S.No.294 of 2013 was transferred to the Judicial Magistrate cum District Munsif Court, Cheyyur and was re-numbered as O.S.No.54 of 2020.***



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*6. I humbly submit that this Hon'ble Court by its order dated 23.12.2021 has been pleased to allow the CRP.No.2300 of 2018, thereby rejecting the plaint in O.S.No.294 of 2013.*

*7. I humbly submit that aggrieved against the order passed in CRP.No.2300 of 2018, the petitioners herein have preferred SLP.No.11446 – 11447 before the Hon'ble Supreme Court and the said SLP were dismissed giving liberty to the petitioners to seek amendment of O.S.No.150 of 2013.*

*8. I humbly submit that in the order dated 23.12.2021 passed in CRP.No.2300 of 2018, there was typographical error in the year of the re-numbered suits. I humbly submit that O.S.No.48 of 2020 has been mentioned as O.S.No.48 of 2013. Similarly, O.S.No.54 of 2020 was wrongly mentioned as O.S.No.54 of 2013.*

*9. Hence, we filed CMP.No.18451 of 2022 before this Hon'ble Court to rectify the typographical error in the year of the renumbered suits and the same was allowed by this Hon'ble Court by its order dated 24.11.2022 passed in CMP.No.18451 of 2022 in CRP.No.2300 of 2018.*

7. The learned Senior Counsel appearing for the respondent submitted that CMP filed by the petitioners under Section 152 and 153 r/w Section 151 of CPC is not maintainable and there is no typographical error or mistake or defect in Paragraph No.13 of the order dated



24.11.2022 passed in CMP.No.18451 of 2022 as falsely alleged by the petitioners herein. This Court has not verbatim extracted the order passed by the Hon'ble Apex Court dated 24.07.2022. Hence there is no error or accidental mistakes or defects passed in CMP.No.18451 of 2022 dated 24.11.2022 and it is only an observation made in the order.

8. The learned Senior Counsel further submitted that the petitioners have already filed I.A.No.129 of 2023 in O.S.No.54 of 2020 on the file of the Judicial Magistrate cum District Magistrate Court, Cheyyur seeking to amend the plaint, in a rejected plaint. This suit (O.S.No.54 of 2020 was originally on the file of the District Munsif Court, Madhuranthagam vide O.S.No.234 of 2013). Aggrieved by filing of I.A.No.129 of 2023, the respondent has filed CRP.No.1962 of 2023 to make the endorsement already suit has been rejected by the trial Court and another CRP.No.1958 of 2023 against the notice in the I.A.No.129 of 2023 in both the CRPs interim stay was granted by this Court at the time of admission. The main contention is that the petitioners are seeking amendment in O.S.No.294 of 2013 in which plaint has been already rejected by this Court by order dated 23.12.2021 in the above



CRP.No.2300 of 2018.

9. The learned Senior Counsel further submitted that the petitioners cannot seek amendment in the plaint which has been already rejected by this Court and the same was confirmed by the Hon'ble Apex Court by order dated 22.07.2022. It is further submitted that CMP.No.18451 of 2022 was filed only to correct the mistake in the year that is instead of 2020 it was mentioned as 2013. The learned Senior Counsel would further submit that Section 152 of CPC is not applicable to this case and article 144 of the Constitution of India is binding.

10. Heard both side and perused the materials available on record.

11. The present CMP.No.4177 of 2023 was filed by the petitioners to delete the mistake or defects which is said to have crept in the paragraph No.13 but on perusal of the order there is no mistake or defects as pointed out by the petitioners in the order passed by this Court on 24.11.2022 in CMP.No.18451 of 2022 to amend the order dated 23.12.2021 made in CRP.No.2300 of 2018. The CMP.No.18451 of 2022 was filed only to correct the years instead of O.S.No.48 of 2020 it has



been mentioned as O.S.No.420 of 2030, similarly O.S.No.150 of 2022 was wrongly mentioned as O.S.No.54 of 2013 and the amendment was allowed by this Court on 18.02.2022. In paragraph No.13 of the order it is mentioned that in Apex Court, order has given liberty to seek amendment in O.S.No.150 of 2013 but whereas in the Hon'ble Apex Court order it is mentioned that the petitioner shall be at liberty seek to amendment in O.S.No.150 of 2013 if so permissible in accordance with law, whereas in the order passed by this Court it is mentioned in paragraph No.13 that liberty given by the Hon'ble Apex Court to amend the O.S.No.156 of 2013 and as rightly contended by the learned Senior Counsel appearing for the respondent it was observed by this Court and it will no way change the order passed by the Hon'ble Apex Court.

**12. It is pertinent to note that I.A.No.129 of 2023 in O.S.No.54 of 2022 (old O.S.No.294 of 2013) is sought to amend the plaint which has been already rejected by this Court in the above civil revision petition by order dated 23.12.2021. Aggrieved by the order passed by this Court only, the petitioners have filed SLP 1146 & 1147 of 2022 in which the Hon'ble Apex Court by order dated 24.07.2022 has**



**given liberty to the petitioners to seek amendment in O.S.No.150 of 2013 if so permissible in accordance with law and the Special Leave Petitions were accordingly dismissed. The respondents have also filed CRP.No.1962 of 2023 to make an endorsement already suit has been rejected by the trial Court and another CRP.No.1958 of 2023 against the notice in IA.No.129 of 2023 and in both the civil revision petitions this Court was pleased to grant interim stay at the time of admission and the same is still in force as on date.**

13. In view of the above factual matrix of the case and for the foregoing reasons, this Court is of the considered view that the petition CMP.No.4177 of 2023 filed by the revision petitioner is devoid of merits and the same stands dismissed.

**22.12.2023**

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**22.12.2023**