



C.R.P.No.4729 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.4729 of 2023

and

C.M.P.No.28065 of 2023

1. Balamani
2. Mathupriya

... Petitioners

-Vs-

S.Palanathal (died)

1. S.Rukkumani
2. P.Subramaniam
3. S.Narayanasamy
4. S.Valarmathy

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 04.11.2023 passed in I.A.No.9 of 2023 in O.S.No.252 of 2016 on the file of I Addl. District and Sessions Judge, Tiruppur.

For Petitioner

: Mr.K.Myilsamy



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ORDER

Challenging the impugned order passed in I.A.No.9 of 2023 in O.S.No.252 of 2016 passed by the learned Addl. District and Sessions Judge, Tiruppur, the Revision Petitioners/defendants preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioners/defendants filed an application seeking permission to receive their additional written statement, but the same was dismissed by the trial judge stating that no reasons stated for the necessity to file additional written statement. Challenging the said findings, they preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioners would submit that in the year of 2021, the amendment application filed by the plaintiff was allowed. So, necessity arose for him to file additional written statement. But, the trial judge without granting permission to file the same, dismissed the application. Hence, they prayed to set aside the findings of trial judge.



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5. Records perused. Now, the suit is at the stage of examination of witness. Admittedly, in the year of 2021, the amendment application was filed by the respondents/plaintiffs. Thereafter, now the defendants filed their additional written statement due to the amendment made by the respondents/plaintiffs. However, now the suit is at the stage of part-heard matter, so by receiving additional written statement would not cause any prejudice to the respondents/plaintiffs. But, the trial judge failed to consider the same. Hence, the findings of trial judge is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings rendered by the trial judge in I.A.No.9 of 2023 in O.S.No.252 of 2016 is set aside and the said application is ordered to be allowed. Both parties are directed to cooperate with the trial proceedings. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

20.12.2023

Index : Yes/No
Speaking Order : Yes/No
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To
The I Addl. District and Sessions Court, Tiruppur.



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T.V.THAMILSELVI, J.

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