



C.R.P(MD)No.146 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.04.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.146 of 2023

and

CMP(MD)No.716 of 2023

1.Subha

2.Revathi

3.Karthik

...RevisionPetitioners/Respondents/

Defendants.

Vs.

1.Raja

2.Prabhavathy

...Respondents/Petitioners/Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order dated 12.09.2022 made in I.A.No.1 of 2022 in O.S.No.165 of 2021 on the file of the II Additional District Judge, Tiruchirappalli, by allowing the Civil Revision Petition.

For Petitioners : Mr.T.Venkatesan

For Respondents : Mr.M.Ashok Kumar



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ORDER

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The plaintiff has filed this Civil Revision Petition under Article 227 of Constitution of India to set aside the order dated 12.09.2022 made in I.A.No.1 of 2022 in O.S.No.165 of 2021 on the file of the learned II Additional District Judge, Tiruchirappalli.

2.The petitioners before this Court are the defendants before the learned II Additional District Judge, Tiruchirappalli in O.S.No.165 of 2021. In the suit, the respondents/plaintiffs filed I.A.No.1 of 2022 to amend the plaint which came to be allowed by the learned II Additional District Judge, Tiruchirappalli vide order dated 12.09.2022. The relevant portion of the impugned order reads as under:-

“5.Heard. Records perused. This petition is filed by the petitioners to amend the main plaint with regard to the date of sale agreements and deletion of para 38. The main suit is filed by the plaintiffs for specific performance. The learned counsel for the petitioners submitted that the dates of sale agreements are mentioned as 14.07.2010 in stead of 21.03.2013 and 07.04.2015. They are typographical errors. If the amendment is takem, the nature of the case is not changed. On the other side, the learned counsel for the respondents objected that after examination of P.W.1 and documents marked, at this stage this petition is filed and after scratching the proof affidavit or withdrawing the proof affidavit, the petitioner is eligible to file the petition.”



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3.A specific reference is made to the paragraph No.17 of the recent decision of the Hon'ble Supreme Court in the case of ***Life Insurance Corporation of India Vs Sanjeev Builders Private Limited and others*** (Civil Appeal No.5909 of 2022) which reads as under:

"17. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the following questions of law fall for the consideration of this Court:

1. Whether the High Court committed any material irregularity or jurisdictional error going to the root of the matter in passing the impugned order?

2. Whether the provisions of Order II Rule 2 CPC can be made applicable to an amendment application?

3. Whether the amendment of plaint for the purpose of enhancing the amount towards damages could be said to be hit by the doctrine of constructive res judicata?

4. Whether the judgment and order passed by a coordinate Bench of this Court in the case of Life Insurance Corporation of India (supra) between the same parties has any bearing on the present appeal?

*5. Whether the present appeal is covered by the proviso to Section 21(5) and Section 22(2) reply of the ***Specific Relief Act***, 1963 (47 of 1963) (for short, 'the Act 1963')?"*

4.In my view, the impugned order passed by the Trial Court does not call for any interference. The issues relating to the merits which the petitioners wants to canvass here, it is left open to canvassed at the time of final argument in the above suit.



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C.SARAVANAN,J.

dss

5.With the above observation, this civil revision petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

11.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
dss

To

- 1.The II Additional District Judge,
Tiruchirappalli.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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