



CRP(MD).NO.350 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No.350 of 2023

and

C.M.P(MD).No.1702 of 2023

G.Sadaya Ramanujam ... Petitioner/Petitioner/2nd Defendant

Vs.

1.Gurusamy (died)

2.G.Susila

3.G.Balamurugan

4.G.Prabhakar

5.G.Lathamani

6.G.Lakshmi Deepa

... Respondents/Respondents 1 to 6/
Plaintiffs 1 to 6

7.Villupuram District Co-operative Spinning Mills Ltd.,

II-498 and rep., through its Liquidation Officer

Ramamoorthy having his office at No.8, Salakkarai Road,

Chellanguppam, Cuddalore, Cuddalore District.

... Respondent/Respondent/1st Defendant

PRAYER : Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 09.12.2022 in I.A.No. Unnumbered of 2022 in O.S.No.281 of 2014 on the file of the Subordinate Court, Theni.

For Petitioner : Mr.N.Mohan



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ORDER

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The present revision petition has been filed challenging an order passed by the trial Court in an unnumbered application, in which, the request of the second defendant for passing a decree in his favour for 50% of the claim amount was dismissed.

2. The suit was filed by the plaintiffs for recovery of 60% of the amount from the Co-operative Spinning Mills. In the said suit, the second defendant had filed a written statement contending that the plaintiffs are not entitled to 60% and the entire 100% belongs to the second defendant. When the evidence was closed and when the matter was posted for arguments, the second defendant has filed the present application claiming that he is restricting his claim to 50% of the amount and he has requested the Court to pass a decree in his favour for the said 50% of the amount to be recovered from the Co-operative Spinning Mills. This application has been dismissed by the trial Court on the ground that the second defendant is attempting to introduce a counter claim by way of an application, which has been filed after the evidence has been closed. This order has been challenged in the present revision petition.



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3. Heard the learned counsel appearing for the petitioner and I have gone through the pleading of the parties and averments in the unnumbered claim application. If really the second defendant wanted to restrict his claim to 50% of the amount to be recovered from the Co-operative Spinning Mills, that can be raised by him during the arguments. This application is unnecessary. If really the second defendant want a decree in his favour as against the Co-operative Spinning Mills, it is for him to initiate independent proceedings and not by way of counter claim at this stage of suit.

5. With the aforesaid observation, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

14.02.2023

Index : Yes / No

Internet : Yes / No

Rmk

To

1. The Subordinate Judge, Theni.

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R.VIJAYAKUMAR ,J.,

Rmk

Order made in
CRP(MD).No.350 of 2023

Dated:
14.02.2023