



C.R.P(MD)No.457 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.06.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.457 of 2020

and

C.M.P(MD)No.2785 of 2020

A.P.Rajangam

... Revision Petitioner/
Respondent/Defendant

Vs.

V.Manikandan

... Respondent/Petitioner/
Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and final order dated 27.09.2019 made in I.A.No.337 of 2017 in O.S.No.12 of 2017 on the file of the Subordinate Judge, Uthamapalayam.

For Petitioner : Mr.P.Santhoshkumar

For Respondent : No Appearance

ORDER

The present Civil Revision Petitions have been filed against the fair and final order dated 27.09.2019 made in I.A.No.337 of 2017 in



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O.S.No.12 of 2017 on the file of the learned Subordinate Judge,
Uthamapalayam.

2. The petitioner is the defendant in O.S.No.12 of 2017 before the learned Subordinate Judge, Uthamapalayam. The petitioner is aggrieved by the impugned order, dated 27.09.2019 passed by the Sub Court, Uthamapalayam in I.A.No.337 of 2017 in O.S.No.12 of 2017 filed by the respondent herein. The respondent had filed I.A.No.337 of 2017 for amending the plaint under Order 6 Rule 17 of C.P.C.

3. The learned counsel for the petitioner fairly concedes that the application was filed before the commencement of the trial. It is further submitted that there is an alternation in the date of the cheque and the date of borrowal as detailed below:

	In Plaint	Registered on
Date of Cheque	21.12.2016	02.11.2016
Date of Borrowal	04.11.2016	04.10.2016

4. He further submits that the amendment ought not to have been allowed by the Court. It is submitted that the suit was filed for recovery of money and cause of action arises on the basis of the execution of the



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alleged date of the cheque. If the amendment is carried out, the entire cause of action would get altered. It is further submitted that the amendment has been allowed to fill up the lacuna in the pleadings especially in the light of the written statement filed by the petitioner and therefore, such amendment ought not to have been allowed. It is submitted that this application for the amendment of the plaint was made after the petitioner filed an application in I.A.No.207 of 2017 for rejection of the plaint under Order 7 Rule 11 of C.P.C.

5. I have considered the arguments advanced by the learned counsel for the petitioner.

6. In my view, the amendment will not cause any prejudice to the petitioner. The Courts have repeatedly concluded that pre-trial amendment has to be allowed merely because the petitioner has filed an application for rejecting the plaint in I.A.No.207 of 2017, which led to filing of I.A.No.337 of 2017 for amendment of the plaint by altering the date of the cheque and date of the borrowal of the loan *ipso facto* would not mean that prejudice will be caused to the petitioner.



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7. I do not find any merits in the present civil revision petition.

Considering the fact that the suit is of the year 2017, the Sub Court, Uthamapalayam is directed to dispose of the O.S.No.12 of 2017 as expeditiously as possible preferably within a period of 9 months from the date of receipt of copy this order. However, liberty is given to the petitioner to file an additional written statement in the light of the amendment that has been allowed. All issues relating to limitation are left open to be canvassed by the petitioner in the suit at the time of final disposal.

8. The present Civil Revision Petition stands dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

08.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To
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- 1.The learned Subordinate Judge,
Uthamapalayam
- 2.The Sub Court,
Aurppukottai.
- 3.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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