



C.R.P.(MD).No.1719 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD)No.1719 of 2019

and

C.M.P(MD) No.8836 of 2019

N.Paulraj Muniyathiriyar

... Petitioner/Petitioner/
1st Defendant

-vs-

1. Agni Ammal

2. Muthujothi

... Respondents 1 and 2/Respondents/
Plaintiffs

3. M.Balasubramanian

4. B.Senthil Balu

5. B.Ramya Balu

6. Arthi Balu

... Respondents 3 to 6/Respondents/
Defendants 2 to 5

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 04.09.2019 in unnumbered I.A.S.R.No.9 of 2019 in O.S.No.138 of 2018 on the file of the learned II Additional District Judge, Tiruchirappalli.

For Petitioner : Mr.AN.Ramanathan

For Respondents : Mr.N.Tamilmani – for R1 and R2
: No appearance – for R3 to R6



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ORDER

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The present Civil Revision Petition has been filed by the petitioner under Article 227 of the Constitution of India, against the order dated 04.09.2019 in unnumbered I.A.S.R.No.9 of 2019 in O.S.No.138 of 2018 on the file of the learned II Additional District Judge, Tiruchirappalli.

2. The petitioner is the 1st defendant, the respondents 1 and 2 are the plaintiffs and the respondents 3 to 6 are the defendants 2 to 5 before the Court below.

3. For the sake of convenience, the parties will be referred to as per the litigative status before the trial Court.

4. The learned counsel appearing for the petitioner would submit that the very application has been filed so as to frame the additional issues. However, the Court below has returned the said application, on the ground that the trial has already been commenced.



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5. The learned counsel appearing for the respondents 1 and 2 would submit that now the suit is at the stage of further evidence of plaintiffs. Therefore, the very application is not maintainable.

6. This Court has given anxious consideration to the submissions of the learned counsel for the petitioners and the learned counsel for the respondents 1 and 2.

7. It is pertinent to mention here that the first defendant has moved an application under Order 14, Rule 5 of C.P.C., to add the additional issues. Since the explanation of issue hinges under Order 14 Rule 5 of C.P.C, this Court deems it appropriate to extract the same.

Order XIV Rule 5 of C.P.C:

.....

5. Power to amend and strike out issues: (1) *The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed.*

(2) *The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or*



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introduced).

8. The plain reading of the provision clearly stated that at any point of time, the Court may add or strike out any issues. Here, on perusal of the return, the Court below has returned the application only on the ground that the trial has already commenced. Therefore, on the face of it, the very return is not in accordance with law and the same is perverse. Therefore, this Court would like to interfere with the said order.

9. In the result, this Civil Revision Petition is **allowed**. The Court below is directed to number the said application in I.A.S.R.No.9 of 2019 and dispose of the same according to law. The Court below is directed dispose the above application within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

14.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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Note: Registry is directed to return the original petition to the petitioner after receiving a certified copy from the learned counsel for the petitioner.



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To

1. The II Additional District Court,
Tiruchirappalli.



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C.KUMARAPPAN,J.

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