



C.R.P.(PD).Nos.1958 and 1962 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 20.08.2024

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THE HON'BLE MR. JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).Nos.1958 and 1962 of 2023
and C.M.P.No.12369 of 2023

M/s Coromandal Beach Properties Private Limited
Rep.by its Director
Pramod Ranjan

... Petitioner in both the C.R.P's.

-Versus-

1.D.Selvi
2.R.Soundarapandian
3.R.Sankar
4.P.Devada
5.R.Arulmozhi
(Respondents 2 to 5 are represented by their
Special Power of Attorney – D.Selvi)
6.G.Madusudana Reddy
7.G.Thirupal Reddy
8.M/s Shreyas Investments
Rep.by its Partner
N.Balasubramanian
9.V.Krisnaveniammal
10.S.Dhanalakshmi
11.A.Santha
12.H.Sudha Lakshmi
13.A.Kumaran
14.A.Karthik
15.V.Kanniappan
16.V.Dhanasekaran (alias) Pavadai



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17.P.Sathish

18.V.Kamalakanni

19.V.Malar

20.K.Karnan

... Respondents in both the C.R.P's.

PRAYER in C.R.P.No.1958 of 2023: Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the entire records leading to the numbering of impugned I.A.No.129 of 2023 in O.S.No.54 of 2020 on the file of the Court of the District Munsif-cum-Judicial Magistrate, Cheyyur, by order dated 25.04.2023 and set aside the same and consequently strike off the I.A.No.129 of 2023 in O.S.No.54 of 2020.

PRAYER in C.R.P.No.1962 of 2023: Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the entire records in O.S.No.54 of 2020 on the file of the Court of the District Munsif-cum-Judicial Magistrate, Cheyyur and strike off the order dated 25.04.2023 and consequently direct the learned Judge to reject the plaint in compliance with the order passed in C.R.P.No.2300 of 2018 confirmed in Special Leave to Appeal (C)Nos.11446 – 11447/2022 by making necessary endorsements in accordance with Order VII Rule 12 of CPC.

In both the C.R.P's.:-

For the Petitioner : Mr.T.V.Ramanujam
Senior Counsel
for Ms.R.Ramya

For the Respondents : Mr.B.Dayalan for RR 1 to 5



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COMMON ORDER

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C.R.P.No.1958 of 2023 seeks for striking off I.A.No.129 of 2023 in O.S.No.54 of 2020 on the file of the Court of the District Munsif cum Judicial Magistrate at Cheyyur.

2. The Civil Revision Petitioner is the 1st defendant in the suit. O.S.No.54 of 2020 was originally presented as O.S.No.294 of 2013 before the District Munsif, Madurantakam. Prior to the suit, another suit had been presented between the parties in O.S.No.150 of 2013, that too was pending on the file of the District Munsif, Madurantakam. Subsequently, with the creation of the new Court at Cheyyur, O.S.No.150 of 2013 was transferred and re-numbered as O.S.No.48 of 2020.

3. On being served with the summons in O.S.No.294 of 2013, the 1st defendant took out an application for rejection of plaint in I.A.No.2324 of 2017. The said application was dismissed by the learned District Munsif, Madurantakam on 07.04.2018. Against the said order, a Civil Revision Petition was presented before this Court in C.R.P.No.2300 of 2018. The said revision was allowed on 23.12.2021 and the plaint in O.S.No.294 of 2013 re-numbered



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as O.S.No.54 of 2020 stood rejected.

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4. Aggrieved by the order passed in the revision, a Special Leave Petition was preferred to the Supreme Court in S.L.P.(C) No.11446 and 11447 of 2022. The Special Leave Petitions were dismissed *in limine* on 22.07.2022. While dismissing the SLP, liberty was granted to the petitioners therein to amend the plaint in O.S.No.150 of 2013, which is today pending as O.S.No.48 of 2020 before the learned District Munsif at Cheyyur.

5. This narration shows that the suit in O.S.No.54 of 2020 is no more on the file of the learned District Munsif at Cheyyur. However, misconstruing the liberty that has been granted by the Supreme Court, instead of moving an amendment application in O.S.No.48 of 2020, an application was moved in I.A.No.129 of 2023 in O.S.No.54 of 2020. The learned District Munsif issued notice in the amendment application filed in the rejected suit. Hence, the revision.

6. Heard Mr.T.V.Ramanujam, Senior Counsel appearing for Ms.R.Ramya and Mr.B.Dhayalan for the respondents 1 to 5.



7. I have carefully considered the submissions made on either side and gone through the records.

8. The aforesaid facts would go to show that the plaintiffs have misconstrued the liberty granted by the Supreme Court and has moved an application in the struck off suit, rather than the suit, which is live. To make it abundantly clear O.S.No.150 of 2013 is still pending, in its new avatar as O.S.No.48 of 2020 on the file of the District Munsif Court at Cheyyur. The effect of the order in CRP No.2300 of 2018 is that the suit in O.S.No.294 of 2013, which was subsequently re-numbered as O.S.No.54 of 2020, stood rejected. The effect of rejection is that the suit is no more on the file of that Court. If the suit stands rejected, then no I.A., can be moved in the said suit.

9. Mr.Dhayalan, would contend that the Supreme Court had granted liberty to the party to move an amendment application. He is right in that submission, but the error that has occurred is instead of moving an amendment application in O.S.No.150 of 2013 (now re-numbered as O.S.No.48 of 2020) it has been moved in O.S.No.294 of 2013 (now numbered as O.S.No.54 of 2020). It is too elementary that there cannot be an interlocutory application in a suit, which is not pending. Hence, this revision deserves to be allowed.



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10. Accordingly, C.R.P.No.1958 of 2023 is allowed. C.R.P.No.1962 of 2023 is closed, in the light of the order passed in C.R.P.No.1958 of 2023 dated 20.08.2024. It is needless to add that the plaintiffs in O.S.No.150 of 2013 (O.S.No.48 of 2020) would obviously entitled to take advantage of the liberty granted by the Supreme Court and seek for amendment in that suit. The order passed in these revisions will not in any way affect the rights of the plaintiffs in that suit. No costs. Consequently, the connected miscellaneous petition is closed.

20.08.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
Speaking / Non Speaking Order

To

The District Munsif-cum-Judicial Magistrate, Cheyyur.



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V.LAKSHMINARAYANAN, J.,
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