



C.R.P.(PD)(MD) No.237 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P.(PD)(MD) No.237 of 2021

and

C.M.P.(MD) No.1570 of 2021

Janagi (Died)

... Petitioner/
2nd Respondent/
2nd Defendant

2.Kalpana

3.Karthikeyan

4.Ramani

5.Akila

... Petitioners 2 to 5

*[Petitioners 2 to 5 – brought on record as LRs of
the deceased sole petitioner vide order dated
13.03.2024 made in C.M.P.(MD) Nos.3631 and
3632 of 2024 in C.R.P.(MD) No.237 of 2021]*

Vs.

Ramachandran (Died)

1.Jayalakshmi

2.Veerakumar

3.Indrani



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4.Sumithra

... Respondents 1 to 4/
Petitioners 2 to 5/
LRs of 1st Plaintiff

Marimuthu (Died)

5.Ammachi

6.Lakshmi

7.Reddiyar @ Subbu Reddiyar (Died) ... Respondents 5 to 7/
Respondents 3 to 5/
Defendants 3 to 5

***[R7 – Died and petitioner is exempted from substituting the
LRs of the deceased R7 – Reddiyar @ Subbu Reddiyar vide
Court order dated 10.02.2022 made in C.R.P.(MD) Nos.2123
of 2010 and 237 of 2021 and C.M.P.(MD) No.6428 of 2021]***

Prayer: Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 05.02.2020 passed in I.A.No.1008 of 2018 in O.S.No.76 of 2008 on the file of the Court of the District Munsif, Musiri.

For Petitioners : Mr.G.Sridharan

For RR1 to 4 & 6 : No appearance

Respondent-5 : Tapal returned

Respondent-7 : Died



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ORDER

This civil revision petition is directed against an order dated 05.02.2020 in I.A.No.1008 of 2018 in O.S.No.76 of 2008 passed by the learned District Munsif, Musiri.

2. The said application was filed by Respondents No.1 to 4/Plaintiffs No.2 to 5 under Order VI Rule 17 of the Civil Procedure Code seeking amendment of the plaint by adding two additional items of suit schedule properties in the plaint and also making a substantial amendment to the plaint by adding new paragraph and substituting certain paragraphs including the cause of action paragraph, when the said suit was at the stage of arguments after concluding the entire trial.

3. A Coordinate Bench of this Court, having heard the learned counsel for the petitioners fully, considering the request made by the learned counsel for the respondents, adjourned the matter to 22.02.2023. However, thereafter, the matter came up before this Court for consideration on



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13.03.2024 and this Court also heard the learned counsel for the petitioners at length. However, once against a request is made on behalf of Respondents No.1 to 4/Plaintiffs No.2 to 5 for adjournment. Accordingly, the matter was directed to be listed on 18.03.2024. Today, when the matter is taken up for consideration, there is no representation for Respondents No.1 to 4/Plaintiffs No.2 to 5 either in the pre-lunch session or in the post-lunch session. In the circumstances, this Court is left with no other option, except to dispose of the matter on merits.

4. It is not in dispute that the said interlocutory application in I.A.No.1008 of 2018 was filed under Order VI Rule 17 of the Civil Procedure Code seeking to include two additional items to the suit schedule property and also to amend the plaint by adding a new paragraph and also by substituting certain paragraphs in the plaint including the cause of action paragraph. When the entire trial is concluded and the matter is posted for arguments, filing such application seeking leave of the Court to add two additional items to the property which are not the subject matter of the original suit would definitely change the entire nature of the suit and scope of



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the suit shall also get extended. The very fact that Respondents No.1 to 4/Plaintiffs No.2 to 5 intended to substitute the cause of action paragraph itself shows that Respondents No.1 to 4/Plaintiffs No.2 to 5 intended to bring in a new cause of action by way of amendment of the pleadings by filing an application under Order VI Rule 17 of the Civil Procedure Code. But that is not the intendment of Order VI Rule 17.

5. Order VI Rule 17 of the Civil Procedure Code was intended only to facilitate amendment of pleadings to enable the Court to resolve the actual dispute between the parties once for all and also avoid future litigation.

6. In the case on hand, Respondents No.1 to 4 have chosen to file a suit for injunction in respect of one item as mentioned in the suit schedule property and at the fag end of the suit, they are trying to include two more items. If Respondents No.1 to 4 have got any cause of action in respect of those two additional items also, they could have as well mentioned the said items when they filed the suit itself by duly mentioning the same in the cause of action paragraph, but that it not the case on hand. However, the learned



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trial Court, without taking note all these aspects, allowed the application filed by Respondents No.1 to 4/Plaintiff Nos.2 to 5 stating that the defendants can be compensated with costs. Such an approach of the learned trial Court is totally erroneous and cannot be accepted.

7. In the circumstances, this Civil Revision Petition is allowed and the order under revision is set aside. Consequently, I.A.No.1008 of 2018 shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.03.2024

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

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To

The District Munsif,
Musiri.



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MUMMINENI SUDHEER KUMAR, J.

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