



C.R.P.(PD) (MD).No.2853 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD) (MD)No.2853 of 2018

and

C.M.P(MD) No.12352 of 2018

- 1.Durairaj
2. Alagendran
3. Ramu
4. Kannaiah
5. Murugan
6. Sokkan @ Dondhi
7. Maniyampitchai
8. Vellaichamy
9. Alagar @ Kalai
10. Pachai
11. Rajangam
12. Periyasami
13. Raman

... Petitioners/Defendants 1 to 13



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-VS-

1. K.A.Logan

2. Kuppaikilavan

3. Rajaram

4. Alagu

5. Sekar

6. Alagu

... Respondents/Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to order the rejection of plaint in O.S.No.90 of 2018, on the file of the District Munsif – cum- Judicial Magistrate, Natham.

(Prayer is amended vide order of this Court dated 05.04.2024 made in C.M.P(MD) No.15667 of 2023 in C.R.P(MD) No.2853 of 2018)

For Petitioners : Mr.V.Mariselvaraj

For Respondents : Mr.P.R.Prithiviraj
for Mr.D.Sadiq Raja

ORDER

The present Civil Revision Petition has been filed by the defendants in O.S.No.90 of 2018, on the file of the District Munsif – cum- Judicial



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Magistrate Court, Natham, seeking to strike off the plaint.

2. According to the learned counsel appearing for the revision petitioners/ defendants, the plaintiffs have filed an application in I.A.No.135 of 2016, under Order 1 Rule 8 of C.P.C, to file the suit in representative capacity of Alagapuri Village. After effecting paper publication, 134 objections were received. The order came to be passed on 05.10.2018, permitting the plaintiffs to prosecute the suit in their representative capacity with a condition that all the 134 objectors should be impleaded as the defendants in the suit.

3. It is the further case of the revision petitioners that without complying the orders in I.A.No.135 of 2016, they have filed a fresh suit on 29.11.2018 and the suit has been numbered as O.S.No.90 of 2018. Therefore, according to the learned counsel appearing for the revision petitioners, the present suit having been filed without complying the orders in I.A.No.135 of 2016, has to be rejected.

4. Per contra, the learned counsel appearing for the respondents/ plaintiffs had contended that only after complying with the orders in I.A.No.



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135 of 2016, the suit has been numbered by the trial Court. Therefore, it is not a fresh suit, but, only a continuation of the suit, in which, the order was passed in I.A.No.135 of 2016.

5. In view of the dispute between the parties, a report was called for by this Court from the learned District Munsif-cum-Judicial Magistrate, Natham. The learned Judge has addressed a communication dated 22.04.2024, to the effect that after complying with the orders in I.A.No.135 of 2016, the plaint was represented on 29.11.2018. Therefore, there is only one suit which has been taken on file. As per the report of the learned District Munsif-cum-Judicial Magistrate, Natham, the suit in O.S.No.90 of 2018 is not a fresh suit but only a continuation of the old suit, in which, I.A.No.135 of 2016 was allowed on 05.10.2018. In view of the report submitted by the learned District Munsif-cum-Judicial Magistrate, Natham, I do not find any merits in this Civil Revision Petition.

6. Though this report was brought to the notice of the learned counsel appearing for the revision petitioners time and again, he was insisting by him that the plaintiffs did not comply with the orders in I.A.No.135 of 2016 and they have presented a fresh petition. Therefore, a second report was also



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called for from the learned District Munsif-cum-Judicial Magistrate, Natham, and from the report it is clear that the present Civil Revision Petition has been filed suppressing the material facts.

7. Therefore, this Civil Revision Petition stands dismissed, with costs of Rs.10,000/- (Rupees Ten Thousand only) to be paid to the Legal Services Authority, Madurai Bench of Madras High Court, Madurai, on or before **22.07.2024**. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

08.07.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The District Munsif – cum-
Judicial Magistrate,
Natham.



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R.VIJAYAKUMAR,J.

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