



Rev.Aplc(MD).No.98 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2024

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI,J.

Rev.Aplc(MD).No.98 of 2023

in

C.R.P(MD).No.2573 of 2022

1.Chokkalingam
2.Sentahtti Pandian

...Review Petitioners

Vs.

Muthaiah Thevar (Died)

1.Murugan
2.S.Renganathan
3.S.Narayanan
4.S.Ragavan
5.S.Sridhar

...Respondents

Prayer: This Review Application is filed under Order 47 Rule 1 & 2 r/w Section 114 of Code of Civil Procedure, to review the judgment dated 29.09.2023 in C.R.P(MD).No.2573 of 2022.

For Review Petitioners : Mr.V.R.Shanmuganathan



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ORDER

This Review Application is preferred against the order dated 29.09.2023 in C.R.P(MD).No.2573 of 2022 by this Court.

2.The learned counsel appearing for the petitioners/defendants 1 & 2 in C.R.P.(MD).No.2573 of 2022 would submit that, this Court in its order dated 29.09.2023 in the above revision petition ought not to have held that the relief of possession is not barred by limitation and ought to have left it to the trial Court to frame issue in this regard. Hence, prayed for reviewing the order dated 29.09.2023 passed by this Court in C.R.P(MD).No.2573 of 2022.

3.The above revision petition was filed by the petitioners/defendants against the order passed by the learned Principal District Munsif, Srivilliputhur dated 14.11.2022 in I.A.No.5 of 2021 in O.S.No.37 of 2007. The said application was filed by the respondents/plaintiffs to amend the plaint by including the prayer for recovery of possession of suit property. According to the plaintiffs, the



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defendants have encroached over the suit property on 03.09.2021. Where as, the specific defence of the defendants is that they are in possession of the suit property from the year 2006. The trial Court by its order dated 14.11.2022 allowed the amendment application filed by the plaintiffs.

4. Aggrieved by this, the defendants have preferred the civil revision petition in C.R.P.(MD).No.2573 of 2022 assailing the order passed by the trial Court in I.A.No.5 of 2021 in O.S.No.37 of 2007. According to the revision petitioner, the said amendment is barred by limitation.

5. This Court was pleased to dismiss the said revision petition by stating as follows:

"Whether the petitioners/defendants are in possession from the year 2006 or they have encroached the suit property only on 03.09.2021 has to be decided only by way of evidence."

6. It means that the question of limitation has to be decided at the time of trial. Therefore, I find no error on the face of record or any clerical



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mistake in the order passed by this Court on 29.09.2023 in C.R.P.(MD).No. 2573 of 2022. This Court makes it clear that, the petitioners/defendants are not precluded from raising the issue of limitation before the trial Court. The trial Court as such, shall frame an issue on the point of limitation and adjudicate the same in accordance with law.

7.Accordingly, the present review application is closed.

18.03.2024

vsn

Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking order

To

The Principal District Munsif, Srivilliputhur,

K.GOVINDARAJAN THILAKAVADI, J.

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