



C.R.P(MD)No.3437 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED:04.01.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P(MD)No.3437 of 2023

and

C.M.P.(MD)No.72 of 2024

1.Sundarammal
2.Rajalakshmi
3.Kamalaveni
4.Vetriselvi
5.Sornalakshmi
6.G.Kannagi

.. Petitioners/Petitioners/
Defendants2-7

Vs.

1. Jennath Beevi
2.Mathina Begam
3.Syed Raphia

.. Respondents / Respondents /
Plaintiffs

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed in IA.No.3 of 2023 in OS.No.56 of 2011 dated 26.07.2023 on the file of the District Munsif Court, Palani.

For Petitioner : Mr.M.Ponniah



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ORDER

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This Civil Revision Petition has been filed challenging the order passed in IA.No.3 of 2023 in OS.No.56 of 2011 dated 26.07.2023 on the file of the learned District Munsif, Palani.

2. The respondents herein filed a suit in O.S.No.56 of 2011 before the District Munsif Court, Palani seeking the relief of declaration and recovery of possession. That came to be decreed on 11.06.2018 in favour of the respondents herein against which the father of the petitioners herein, who was arrayed as sole defendant, namely, Marikannu preferred an appeal before the appellate Court, ie., Sub Court, Palani in AS.No.53 of 2018. During the pendency of the appeal proceedings, the sole appellant died and LRs were impleaded. They are the petitioners herein. By order dated 19.09.2022, the appellate Court remanded back the matter to the trial Court for fresh adjudication on the ground that the identification was not properly made by the trial Court and the point of *res judicata* was not addressed. Therefore, on that two points, the matter was remanded back to the trial Court.



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3. The case was revived by the trial Court and the petitioners herein filed a petition in IA.No.3 of 2023. That came to be dismissed by the trial Court stating that no such liberty was granted to them by the appellate Court while remanding the matter back to the trial Court. The learned counsel for the petitioner submitted that after impleading the LR's they seek to file additional written statement to establish their case. According to the petitioners, as matter of right, they are entitled to file additional written statement to project their case apart from the defense made by their father. That was refused by the trial Court on the sole ground that the order passed by the trial Court was set aside by the appellate Court solely in the light of the undertaking given by the learned counsel for the respondents. Aggrieved over the same, the petitioners approached this Court.

4. Considering the issue, notice is not ordered to the respondents herein. The learned counsel for the petitioners submitted that apart from filing the additional written statement, they will not lead any evidence. The above said undertaking is placed on record.



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5. In view of the above, whatever the defense that are available to the revision petitioners can be taken in the additional written statement apart from the defense that was already taken by their father. In view of the above, the order made in IA.No.3 of 2023 in OS.No.56 of 2011 dated 26.07.2023 by the learned District Munsif, Palani, is hereby set aside. The additional written statement shall be placed on record. The trial Court is directed to dispose of the suit in O.S.No.56 of 2011 within a period of three months from the date of receipt of a copy of this order, after hearing all the parties and giving opportunity to both side.

6. Accordingly, this Civil Revision Petition stands allowed. Consequently, connected miscellaneous petition is closed.

04.01.2024

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

To
1.The District Munsif,
Palani.



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2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J.

PJL

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