



Rev.Appl.No.15 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 14.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Rev. Appln. No.15 of 2025

in

C.R.P.No.1949 of 2021

1.K.Subramani

2.S.Karthikeyan

...Petitioners/Respondents 1 & 2

Versus

1.K.Kumar

2.R.Rajesh

3.K.Revathi

...Respondent/Petitioner

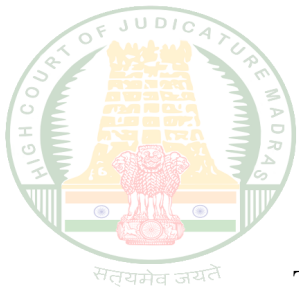
...Respondents/Respondents 3 & 4

PRAYER in Rev. Appl. No.15 of 2025 : Review Petition filed under Order XLVII, Rule 1 of CPC r/w 114 of CPC, seeking to review the order dated 26.07.2022 passed in C.R.P.(PD) No.1949 of 2021.

PRAYER in C.R.P.(PD) No.1949 of 2021: This Civil Revision Petition had been filed under Article 227 of the Constitution of India, to set aside the fair order and decretal order in I.A.No.906 of 2019 in O.S.No.260 of 2012, on the file of the Additional District Munsif Court, Vellore, dated 08.04.2021.

For Petitioners : Mr.S.Sathiachandran

For Respondents : M/s.V.Srimathi



ORDER

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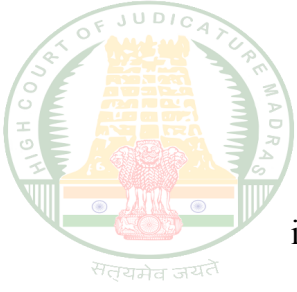
This Review Application is filed to review the order dated 26.07.2022 passed by this Court in C.R.P.(PD)No.1949 of 2021.

2. The learned Counsel for the Review Petitioners submitted his arguments. He invited the attention of this Court to the order passed by this Court in C.R.P.(PD)No.1949 of 2021 dated 26.07.2022, particularly, in paras 3, 5 and 8, which reads as follows:

“3. The trial Court allowed the amendment application on the ground that it will not change the cause of action or affect the rights of the Defendants and the amendment is sought for in the pre-trial stage and the evidence is yet to commence. The Defendants have got right to agitate their case at the time of trial in the the suit. No prejudice would be caused to Defendants if the amendment is allowed. Accordingly, the Court below allowed the amendment as prayed for by the Plaintiffs. Challenging the same, the Second Defendant has filed the present Revision.

5. The learned Counsel for the Petitioner relied on th decision of this Court reported in **AIR 1950 Madras 32** in support of his submissions, wherein this Court observed as follows:

"But in this case certain facts are alleged which facts were available to the Plaintiffs and which the Plaintiffs have not chosen to mention in the original plaint and I do not think it would be open to Courts to permit such an amendment as it would, in the words of their Lordships of the Privy Council in the case reported in *Ma Shwe Mya v. Maung Mo Hmaung* 48 Cal. 832: (AIR (9) 1922 P.C. 249), permit a new case to be made on facts which were available but were not pleaded. I think that the result of allowing the amendment would be to introduce a new element which was absent in the original plaint and that the plaintiffs are not entitled to any such amendment. I hold that the learned Subordinate Judge was in error



in granting the amendment. The petition is allowed with costs."

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8. The trial Court did not take into consideration the fact the Court below had earlier refused to grant injunction in respect of the first floor in view of the established possession of the Revision Petitioner/Second Defendant in I.A.No.431 of 2012 by order dated 05.08.2013, which was confirmed in C.M.A.No.9 of 2013 by judgment dated 07.06.2018 on the file of the learned Principal Sub Court, Vellore. The Court below did not also take into consideration the proviso to Order VI Rule 17 CPC which provides that no amendment shall be allowed, after the trial has commenced, unless the Court comes to the conclusion that inspite of due diligence party could have raised the matter before the commencement of trial. As per the ruling cited by the learned Counsel for the Petitioner in AIR-1950 Madras-32 the Plaintiffs had not been diligent, as at the earlier stage but injunction was not granted to the first floor of the property as the Respondents had proved their contention that the Respondents was in possession of the first floor of the property as the Plaintiff was refused interim injunction for the first floor of the property. Appeal before the learned Sub Judge had confirmed the findings of the trial Court. Therefore, this Appeal by Plaintiff was dismissed. After the dismissal of the Appeal by Plaintiff, the Plaintiff seeks to evict the first floor of the property which is nothing but new cause of action, which will prejudice the valuable defence of the Second Defendant. Therefore, the objection by the Second Defendant is found reasonable and acceptable by this Court."

3. The learned Counsel for the Review Petitioners invited the attention of this Court to the plaint mentioning the schedule of property, which reads as follows:

'Schedule of Property'

வேலூர் மாவட்டம், வேலூர் பதிவு மாவட்டம்,
வேலூர் துணை பதிவு மாவட்டம், வேலூர் வட்டம்,
வேலூர் மாநகரம், மண்டி தெரு, கதவிலக்கம் 114/
1-ல் உள்ள "ஸ்ரீ காமாட்சி டிரேடர்ஸ்" மற்றும் "ஸ்ரீ
காமாட்சி அண்டு கோ".

4. It is the contention of the learned Counsel for the Review

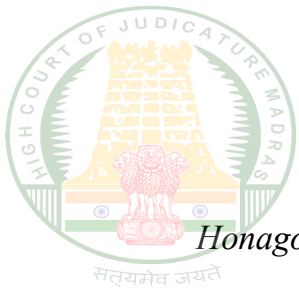


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Petitioners that if the Review Application is not allowed, they will be prevented from marking documents during trial. Also, he invited the attention of this Court to the order passed by the learned Additional District Munsif, Vellore District, in I.A.No.906 of 2019 in O.S.No.260 of 2012 dated 08.04.2021, which reads as follows:

“4. On careful perusal of the pleadings and the order copy in CMA.No.9 of 2013, it is seen that the appeal arises from the order passed in IA.No.431 of 2012 which was filed by the petitioners seeking for interim injunction against the respondents. It is further seen that the Hon'ble Appellate Court has made some observations in regard to the ground floor and first floor in its order. The finding in the appeal is not binding as far as the present relief seeking for amendment of pleading in respect of suit property is concerned. The relief claimed in the appeal as well as in the present amendment application are different and it can be independently decided. The Hon'ble Appellate Court gave incidental finding in regard to the door numbers in which the parties are carrying on business while deciding the substantive point of interim injunction granted in the suit. The petitioners have filed the property tax receipts in the interim application No.431 of 2012 for both the door numbers, i.e., ground floor and first floor.”

5. Therefore, it is a well reasoned order. The learned Additional District Munsif, Vellore District, had relied on the ruling of the Hon'ble Supreme Court in the case of State of **MP vs Union of India** dated 17.08.2011, which held that *“In so far as the principles which govern the question of granting or disallowing the amendments under Order VI Rule 17 of CPC is concerned, it postulates amendment of pleadings at any stage of the proceedings”*. The Hon'ble Apex Court in citing the case of *Piramonda*



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Honagonda Patil vs Kolgonda Shidgonda Patil and others stating that

“all amendments are allowed which satisfied the two conditions a) of not working in justice to the other side and b) of being necessary for the purpose of determining the real questions in controversy between the parties. Amendments should be refused only where the other party cannot be placed in the same position as if the pleading have been originally correct but the amendment would causing any injury which cannot be compensated any costs. These are the broad principles to be kept in view while dealing with application under Order VI Rule 17 of CPC”.

6. Therefore, it is a well reasoned order that does not warrant any interference by this Court exercising power of Revision under Article 227 of the Constitution of India.

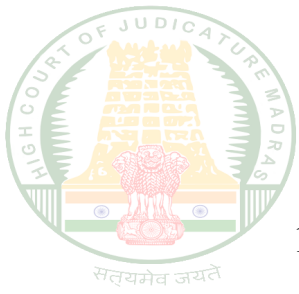
7. The learned Counsel for the Respondents submitted that this Review Application has no merits. She invited the attention of this Court to the grounds mentioned by the Review Petitioners.

8. It is the contention of the learned Counsel for the Respondents that the learned Counsel for the Review Petitioners has quoted certain



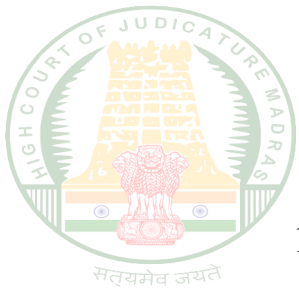
WEB COURT rulings in para D in the grounds of Review Application whether those rulings are applicable to the facts of this case has not been stated.

9. It is the contention of the learned Counsel for the Respondents that the learned Additional District Munsif, Vellore District, had allowed the Petition for amendment in I.A.No.906 of 2019 in O.S.No.260 of 2012. Further, the Plaintiffs were unable to get an interim injunction before the learned Additional District Munsif, Vellore District. The interim injunction Petition in I.A.No.431 of 2012 in O.S.No.260 of 2012 was dismissed by the learned Additional District Munsif, Vellore District, against which the Plaintiffs in O.S.No.260 of 2012, the Review Petitioners went in Appeal in C.M.A.No.9 of 2013 before the learned Principal Sub Judge, Vellore. The learned Principal Sub Judge, Vellore, had also dismissed the Appeal confirming the dismissal of the interim injunction by the learned Additional District Munsif, Vellore District. Aggrieved by the dismissal of C.M.A, the Plaintiffs as Appellants did not prefer the Civil Revision Petition before this Court, which gives the presumption that the Plaintiffs admitted the judgment of the dismissal of C.M.A. After having suffered a judgment in C.M.A, he cannot now seek to amend the plaint.



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10. In the plaint schedule, the Plaintiffs had not stated clearly that they are in enjoyment of the ground floor and first floor. Now, after having suffered a judgment of the Appellate Court, they cannot be permitted to amend the plaint, particularly the plaint schedule. Therefore, the rulings cited by the 1st Respondent herein as the Petitioner in the Civil Revision Petition relying on the judgment of the Privy Council in AIR-1950 Madras-32 which is based on the ruling of the the Privy Council in the case reported in Ma Shwe Mya v. Maung Mo Hmaung 48 Cal. 832: (AIR (9) 1922 P.C. 249) are squarely applicable to the facts of this case. The Plaintiffs had the opportunity to plead in detail regarding the schedule of property when they filed the plaint, when they filed the suit. When the interim injunction was resisted by the Defendants stating that the Plaintiffs are not in occupation of the premises. They are squatting over the property. The learned Additional District Munsif, Vellore District, dismissed the Petition for interim injunction in I.A.No.906 of 2019 in O.S.No.260 of 2012. Therefore, the observation of the learned Additional District Munsif, Vellore District, in para 4 that the learned Additional District Munsif, Vellore District, has discretion to allow the amendment liberally is misconstrued.



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11. The learned Additional District Munsif, Vellore District, quoting the Order XI, Rule 17 of CPC that he has wide powers and unfettered discretion in allowing the amendment, is not correct as per the facts of this case when the Defendants had made their defence very clear in the written statement.

12. It is the contention of the learned Counsel for the Respondents in the Review Application that the Application lacks merits and they are squatting over the property. The suit is of the year 2012. Till date, they have not vacated the premises and have filed the Review Application which has no merit. They are unable to point out what was the error crept in the order. Therefore, the order of this Court in the Civil Revision Petition is a well reasoned order that does not warrant any review. The Review Application is without any merit. Under the guise of a Review Application, the Review Petitioners are squatting over the property, and the suit is of the year 2012. Till date the trial has not proceeded. Therefore, this Application is to be dismissed.

Point for consideration:



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**Whether the Review Application is to be allowed
and the order passed by this Court in C.R.P(PD)No.1949
of 2021 dated 26.07.2022 is to be reviewed?**

13. Heard the learned Counsel for the Review Petitioners and the learned Counsel for the Respondents.

14. Perused the grounds of review, perused the order passed by this Court in C.R.P(PD)No.1949 of 2021, perused the plaint in O.S.No.260 of 2012 and the order passed by the learned Additional District Munsif, Vellore District, in I.A.No.906 of 2019 in O.S.No.260 of 2012.

15. This Court has also perused the order passed in I.A.No.431 of 2012 in O.S.No.260 of 2012 (Petition for Interim Injunction) by the learned Additional District Munsif, Vellore District, where the 2nd Respondent had vehemently objected to the claim of the Plaintiffs as the Petitioners seeking interim injunction for the entire premises having Door No.114/1.

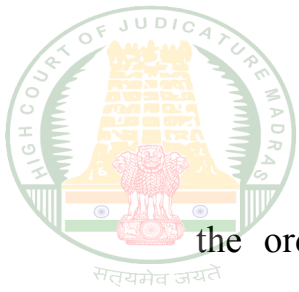
16. It is the specific contention of the 2nd Respondent that the Petitioners are in occupation of the ground floor. The 2nd Respondent is in



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occupation of the first floor. The claim of the Petitioners for an interim injunction in I.A.No.431 of 2012 in O.S.No.269 of 2012 was stoutly refuted by Respondents 1 and 2 by filing a counter specifically stating that the Plaintiffs are not in occupation of the entire premises in Door No.114/1. The Plaintiffs are in possession of the ground floor only. The 2nd Defendant is in occupation of the first floor in Door No.114/1. When that be the case, having failed in his attempt to seek interim injunction I.A.No.431 of 2012 in O.S.No.260 of 2012 The Petition for interim injunction was dismissed by the learned Additional District Munsif, Vellore District, against which he had filed an appeal in C.M.A.No.9 of 2013, which was dismissed by the learned Principal Sub Judge, Vellore, on 07.06.2018. He had preferred a Petition to amend the Plaint in I.A.No.906 of 2019 in O.S.No.260 of 2012. The Amendment Petition was allowed by the learned Additional District Munsif, Vellore District, in I.A.No.906 of 2019 in O.S.No.260 of 2012 on 08.04.2021. Aggrieved, the Respondents in I.A.No.906 of 2019 in O.S.No.260 of 2012 had preferred a Civil Revision Petition under Article 227 of the Constitution of India.

17. Therefore, after hearing both parties, this Court, by order dated 26.07.2022, allowed the C.R.P(PD)No.1949 of 2021 and set aside



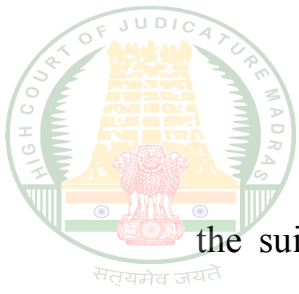
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the order of the learned Additional District Munsif, Vellore District, allowing the Amendment Petition, ignoring the objection of the learned Counsel for the Defendants before the learned Additional District Munsif, Vellore District, regarding the amendment. Now the Review Petitioners had filed this Review Application stating that the order of this Civil Revision Petition has to be set aside as the Civil Revision Petition order prevents the Plaintiffs from marking documents during trial on the ground that documents of the ground floor and first floor were in the custody of the Plaintiffs.

18. As observed by the learned Additional District Munsif, Vellore District, the admissibility, relevance, and objection of the Defendants are to be considered only during trial. Till such time, the amendment ought to be allowed to avoid multiplicity of proceedings. Therefore, he claims that the Review Application is to be allowed.

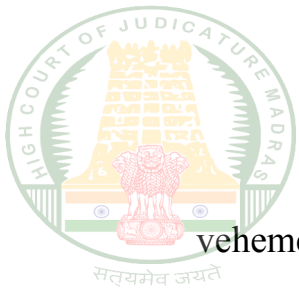
19. On perusal of paragraphs 3, 5 and 8 of the order passed by this Court, the order passed by this Court in Civil Revision Petition is a well reasoned order. The Plaintiffs had the opportunity of clearly mention the portion that was in the enjoyment and possession of the Plaintiffs. By filing



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the suit, he has not chosen to give the details of the possession of the property. When they filed Petition for Interim Injunction, I.A.No.431 of 2012, it was resisted by the Defendants in the suit as Respondents clearly stated that the Plaintiffs are not in possession of the entire premises bearing Door No.114/1 clearly stating that the 2nd Respondent is in occupation of the first floor of the premises D.No.114/1. Therefore, the claim that the Review Applicants claim that they are in possession of both floors cannot be sustained in the Review Application. What was available before the grant of injunction or refusal of injunction in I.A.No.431 of 2012 in O.S.No.260 of 2012 cannot be altered subsequently after having suffered a judgment in C.M.A.No.9 of 2013 before the learned Principal Sub Judge, Vellore.

20. Against the dismissal of C.M.A.No.9 of 2013, the Plaintiffs in the suit in O.S.No.260 of 2012 had not preferred any further revision to the High Court. As rightly contended by the learned Counsel for the Respondents in the Review Application, the Plaintiffs had not preferred any Civil Revision Petition. That gives the presumption of the order, judgment in C.M.A was accepted by the Plaintiffs. To overcome the same, he had adopted a method by attempting to amend the plaint. This was



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vehemently resisted by the Respondents in the Petition in I.A.No.906 of 2019 in O.S.No.260 of 2012, who were the Respondents in the earlier Petition in I.A.No.431 of 2012 in O.S.No.260 of 2012 (for Interim Injunction). The learned Additional District Munsif, Vellore District, ignored the objection of the learned Counsel for the Respondents Petition for Amendment and misdirected himself under the guise that he has vast discretion in allowing the amendment liberally, particularly when the trial had not commenced, thereby causing prejudice to the Respondents/Defendants. The valuable defence has been stated their facts at the earliest point of time that they are not in occupation of the second floor and clearly disputing the claim of the Plaintiffs that they are in possession of the entire premises having Door No.114/1. Therefore, as rightly contended by the learned Counsel for the Respondents, the Petition is vague regarding error apparent on the face of the record in reviewing the order passed by this Court.

21. On perusal of the order passed in I.A.No.906 of 2019 in O.S.No.260 of 2012 on the file of the learned Additional District Munsif, Vellore District, and the order passed by this Court in Civil Revision Petition in paras 3, 5 and 8, the submission of the learned Counsel for the

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Review Petitioners cannot be accepted by this Court.

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22. In the light of the above discussion, the point for consideration is answered against the Review Petitioners and in favour of the Respondents.

In the result, this **Review Application stands dismissed as devoid of merits.** No costs.

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cda

Index : Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes/No



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To

The Additional District Munsif,
Vellore District.



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SATHI KUMAR SUKUMARA KURUP, J.,

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