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C.M.P.No.17112 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-10-2025

CORAM

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

C.M.P.No.17112 of 2025

in

A.S. No.943 of 2020

1.Pattappan @ Pattaiappan

2.Krishnasamy

3.C.Chinnasamy

4.C.Mohanasundaram

... Petitioners

Vs

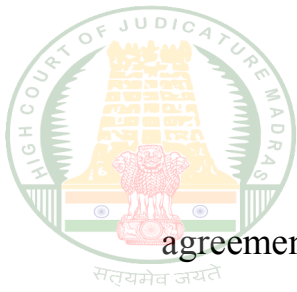
1.Rukmani

2.Govindasamy

... Respondents

PRAYER: To amend the prayer in the plaint in O.S.No.51 of 2015 on the file of the learned First Additional District Court, Tiruppur by including the alternative relief at the end of the prayer in Para No.13(A) as under:

“ Alternatively, to grant a decree for refund of advance amount of Rs. 17,00,000/- with interest at the rate of 12% p.a. from the date of suit sale



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agreement dated 09.10.2014 till the realisation of the same, and to create a charge over the suit properties.”

and pass such further or other suitable orders as deems fit in the circumstances of the case.

For Petitioners : Mr. N. Manoharan.

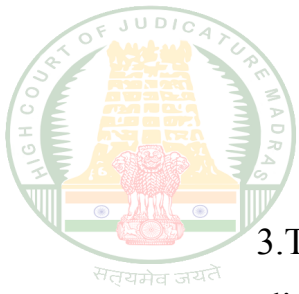
For Respondents : Mr. T. Saikrishnan for R1.
R2 – served.

ORDER

The petitioners/appellants have filed this Civil Miscellaneous Petition seeking to amend the prayer in the plaint in O.S. No. 51 of 2015 on the file of First Additionnal District Court, Tiruppur by including the alternate relief at the end of the prayer in Para No 13 (A) as under:

“ Alternatively, to grant a decree for refund of advance amount of Rs. 17,00,000/- with interest at the rate of 12% p.a. from the date of suit sale agreement dated 09.10.2014 till the realisation of the same, and to create a charge over the suit properties.”

2.The suit was originally laid for specific performance on the basis of the sale agreement dated 09.10.2014, was dismissed by judgment and decree dated 20.12.2019, and the present appeal is pending as A.S. No. 943 of 2020.



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3.The 1st respondent has filed a counter opposing the amendment, contending inter alia that (i) the application at the appellate stage is an afterthought, (ii) it is barred by limitation and laches, and (iii) the genuineness of the alleged advance is disputed—praying for dismissal of the CMP.

4.Heard learned counsel on either side. The scope of the proposed amendment is confined to the prayer clause alone; it springs from the same cause of action—the very sale agreement dated 09.10.2014—on which the suit for specific performance was founded. No new factual foundation is sought to be introduced and the nature and character of the suit remain unaltered.

5.Section 22(2) of the Specific Relief Act mandates that while relief for possession/partition or refund of earnest money or any portion of the purchase price must be specifically claimed, the Court shall, at any stage of the proceeding, allow the plaintiff to amend the plaint to include such relief on such terms as may be just. In appellate proceedings arising from a specific performance suit, a request to add an alternate prayer for refund is therefore maintainable at any stage and, in the facts here, eminently permissible.

6.The objections on delay/limitation and on the merits of the claim including dispute about payment, quantum, market value, etc. are matters for adjudication on the merits of the appeal. Allowing the amendment does not grant the substantive relief; it only permits the appellants to place the alternative claim on record. Any conceivable prejudice can be adequately addressed by affording



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the respondents an opportunity to file additional pleadings and by leaving all defences—including limitation—expressly open.

7.Having regard to the above, and considering that no irreparable prejudice is shown to be caused to the respondents by permitting a purely alternative relief founded on the same transaction, this Court is of the view that the petition deserves to be allowed.

8.Accordingly, this Civil Miscellaneous Petition is allowed. There shall be no order as to costs.

06.10.2025

ay

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

To

1. The I Additional District Court,
Tiruppur.

2.The Section Officer,

4/7



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VR Section,
High Court of Madras,
Chennai.

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DR. A.D. MARIA CLETE, J

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