



C.R.P(MD)No.62 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.01.2025

CORAM

**THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.62 of 2025
and
C.M.P(MD)No.349 of 2025

1.Abdul Kadar

2.Mohammed Mustafa

... Petitioners

Vs.

1.Kadar Sha

2.Mariyam Beevi

3.Habeeb Mohammed

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 18.10.2024 made in I.A.No.1 of 2024 in O.S.No.42 of 2017 on the file of the Sub Court, Aranthangi, Pudukkottai District and allow this Civil Revision Petition.

For Petitioners : M/s.Prabha
for Mr.D.Rameshkumar



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For R-2

: Mr.N.Jeyaram Sidharth

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ORDER

The present Civil Revision Petition is preferred against the order passed in I.A.No.1 of 2024 in O.S.No.42 of 2017, dated 18.12.2024 on the file of the Sub Court, Aranthangi, Pudukkottai District.

2. By consent of both the parties, this revision petition is taken up for final disposal.

3. The petitioners as plaintiffs filed the above suit in O.S.No.42 of 2017 for permanent injunction.

4. According to the petitioners herein, the second petitioner filed a suit in O.S.No.11 of 2012 before the Sub Court, Pudukkottai and the same was transferred to the Sub Court, Aranthangi and renumbered as O.S.No.42 of 2017 for the relief of permanent injunction against the respondents / defendants. After trial, the above suit was dismissed on 31.08.2018. Against which, the appeal suit in A.S.No.7 of 2019 was preferred before the District and Sessions Judge, Pudukkottai, which was



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partly allowed by setting aside the judgment passed by the Trial Court and the matter was remanded back to the Trial Court for fresh adjudication. Thereafter, the revision petitioners filed an application in I.A.No.306 of 2022 for amendment and the same was dismissed, against which, revision was preferred and the same was allowed. Thereafter, the petitioner filed another application in I.A.No.1 of 2024 for withdrawing the suit with liberty to file a fresh suit on the same cause of action. However, the Trial Court dismissed the said application as devoid of merits. Aggrieved by this, the present revision is preferred.

5. Mr.N.Jeyaram Sidharth, accepts notice for the second respondent. The learned Counsel appearing for the second respondent submits that it is an attempt to drag on the litigation and therefore, raised objection to allow.

6. Neither in the petition affidavit nor in the supporting affidavit nothing is stated about the formal defects found in the present suit for withdrawal with liberty to file a fresh suit on the same cause of action. According to the petitioners, they intend to withdraw the suit with liberty



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to file a fresh suit on the same cause of action, since certain documents were omitted to be stated in the plaint. On the above said ground, the suit cannot be permitted to be withdrawn with liberty to file a fresh suit on the same cause of action. On the other hand, the petitioners shall file an application for producing the above additional documents in the above suit itself. Hence, for the above said reason, this revision petition is dismissed as devoid of merits. The petitioners are at liberty to file such an application. However, the Trial Court shall consider the said application on its own merits in accordance with law. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

10.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The Sub Court,
Aranthangi,
Pudukkottai District.

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K.GOVINDARAJAN THILAKAVADI, J.

BTR

Order made in
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10.01.2025