



WEB COPY

C.R.P.(MD)No.1515 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD)No.1515 of 2022

and

C.M.P.(MD)No.6412 of 2022

1.D.Murugan Babu
2.Eswari @ Sadhana

... Petitioners/Petitioners/Plaintiffs

Vs.

1.Muthammal
2.Veerapathiran
3.Rajesh
4.Krishnan
5.Saraswathi

... Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the order and decree passed, dated 07.12.2021, made in I.A.No. 380 of 2021 in O.S.No.678 of 2013 on the file of the Additional District Munsif, Dindigul.

For Petitioners : Mr.G.Gomathi Sankar

For Respondents : Mr.S.Anand Chandrasekar
for M/s.Sarvabhauman Associates
for R1 to R5

* * * * *



ORDER

The present revision petition has been filed by the plaintiffs in O.S.No. 678 of 2013, on the file of the Additional District Munsif Court, Dindigul, challenging the dismissal of their application for amendment of the plaint.

2.A perusal of the plaint reveals that a suit has been filed for recovery of possession and for recovery of a sum of Rs.18,000/- as rental arrears. The schedule of the property reflects that the defendants in the said suit are in possession, not only for 600 sq.ft. of RCC building, but also for 800 sq.ft. of ACC building. Now an amendment application has been filed to delete 800 sq.ft. of ACC building. This application has been dismissed by the trial Court on the ground that the present amendment application has been filed after commencement of the trial and therefore, the plaintiffs have not satisfied the proviso Order 6 Rule 17 of the Civil Procedure Code. Challenging the same, the present revision petition has been filed.

3.According to the learned Counsel appearing for the revision petitioners, only 600 sq.ft. of RCC building was rented out to the respondents herein. By mistake, 800 sq.ft. of ACC building was also included in the schedule of property. When the plaintiffs want to exclude a portion of the property from the prayer for recovery of possession, the same would not in any way alter the cause of action or affect the defendants.



4.Per contra, the learned Counsel appearing for the respondents herein had contended that they have filed O.S.No.430 of 2013, seeking a decree for permanent injunction for both 600 sq.ft. of RCC building and 800 sq.ft. of ACC building. Both the suits are tried together. In the said circumstances, the present revision petitioners who are the defendants in O.S.No.430 of 2013, in their written statement have not contended that this 800 sq.ft. of ACC building was not rented out to the plaintiffs in the said suit. In the said circumstances, allowing of the amendment application would completely alter the cause of action and especially when both the suits are tried together.

5.I have considered the submissions made on either side and perused the materials available on record.

6.The present application for amendment of plaint for excluding the portion of the property from the prayer for recovery of possession has been filed, when the suit is posted for the cross examination of D.W.2. The application for amendment has been filed on 05.10.2021. The records relating to the plaint and the written statement filed in O.S.No.430 of 2013 have been placed on record before this Court by way of typed set of papers by the learned Counsel appearing for the respondents.



7.A perusal of the said plaint and written statement reveal that the revision petitioners herein have filed the written statement to the suit on 17.01.2018, wherein they have not disputed that the plaintiffs therein are in possession of 800 sq.ft of ACC building as well as 600 sq.ft of RCC building. In the said circumstances, it is clear that the revision petitioners herein were not diligent enough in filing an amendment application before the settlement of issues.

8.Considering the fact that the trial has already begun and the plaintiffs in O.S.No.678 of 2013 have not satisfied the proviso Order 6, Rule 17 of the Civil Procedure Code, the trial Court has rightly dismissed the said application.

9.In view of the above said facts, there are no merits in the revision petition. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

05.02.2025

Internet:Yes/No
Index:Yes/No
RJR

To
The Additional District Munsif, Dindigul.



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R.VIJAYAKUMAR, J.

RJR

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