BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.3246 of 2024
and
C.M.P(MD)No.18723 of 2024

1.S.Ramesh alias Ramiah
2.R.Sylaja
...Petitioners/Petitioners/Plaintiffs

Vs.

The Madurai City Municipal Corporation,
Madurai represented through its
Executive Authority, at the Corporation Building,
Anna Maligai, Alagarkoil Road, Madurai.
...Respondent/Respondent/Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to revise and set aside the Impugned order, passed in I.A.No.1 of 2024 in O.S.No.230 of 2017 dated 21st November 2024, by the IV Additional District Munsif Court, Madurai, and allow the Revision by passing an order wholly allowing the Amendments prayed in I.A.No.1 of 2024 in O.S.No.230 of 2017 pending on the file of the IV Additional District Munsif Court, Madurai.

For Petitioners : Mr.S.Kishore Kumar

For Respondent : Mr.S.Vinayak

* * * * *

ORDER

The plaintiffs in O.S.No.230 of 2017, on the file of the learned IV Additional District Munsif Court, Madurai, has filed the present revision petition challenging the disallowed portion in their applications filed under Order 6 Rule 17 of C.P.C.

2.A perusal of the records reveal that the revision petitioner have filed the above said suit as against the Madurai Municipal Corporation for the relief of declaration that enhanced tax and levy of tax by the defendant Corporation vide their worksheet dated 08.07.2016 and the claim of arrears with retrospective effect from 01.04.2014 are null and void and for consequential permanent injunction has already been sought for.

3.This suit was filed challenging the special revision which was proposed in the year 2016. Pending suit, the general revision took place in the year 2022, wherein, the defendant Corporation had enhanced the property tax based upon the special revision made in the year 2016. Therefore, the plaintiffs have filed I.A.No.1 of 2024, to amend the plaint, so as to challenge the general revision of the year 2022 also.

4.The trial Court was pleased to allow the amendment application with regard to Sl. Nos.1 to 3. However, rejected the amendment with regard to Sl. Nos.4 to 7 on the ground that it is based upon new cause of action and therefore, that would change the basic character of the suit. Challenging the same, the present revision petition has been filed.

5.According to the learned Counsel appearing for the revision petitioners, the general revision was effected in the year 2022, only based upon the special revision made in the year 2016. Therefore, if the general revision has not been challenged, there is every possibility that the Corporation may take a defence that the Civil Court has only decreed with regard to the special revision and not with regard to general revision and therefore, he would be running from pillar to post to convince that the general revision of the year 2020 was based upon the special revision of the year 2016. Only by way of abundant caution, the present amendment application has been filed. He further contended that this amendment is only consequential to what was challenged in the main suit. He further pointed out that this is not a new cause of action and will not alter the basic character of the suit.

6.Per contra, the learned Standing Counsel appearing for the respondent herein had contended that in the year 2022, the general revision was made and this amendment application has been filed in the year 2024, after a period of two years. That apart, this application has been filed after the trial has commenced and in view of the proviso to Order 6 Rule 17 of C.P.C., the trial Court has rightly rejected the application on the ground that there was no due diligence on the part of the plaintiffs in seeking the above said prayer. He further contended that the civil Court has no jurisdiction to entertain the suit with regard to the property tax in view of the availability of alternative remedy of approaching the tribunal.

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

8.A perusal of the prayer in the plaint filed in the year 2017 reveals that the plaintiffs have chosen to challenge the special revision of the property tax made by the defendant Corporation. When the suit is pending, the general revision has been effected by the Corporation in the year 2022, which is based upon the special revision that was made in the year 2016. By way of amendment, the plaintiffs have chosen to challenge the general revision also which is based upon the special revision of the year 2016. In such circumstances, the amendment sought for in I.A.No.1 of 2024, cannot be considered to be a new cause of action or that would alter the basic character of the suit. If the amendment is allowed, it would avoid multiplicity of proceedings and give clarity to the special assessment of the year 2016 and general assessment of the year 2022. That apart, the application has been filed even before commencement of the evidence on either side. In such circumstances, the order impugned in the revision petition is not sustainable.

9.Accordingly, this Civil Revision Petition stands allowed. No costs. Consequently, connected miscellaneous petition is also closed.

19.03.2025

Internet:Yes/No
Index:Yes/No
RJR

To
The learned IV Additional District Munsif,
Madurai.

Copy to:-
The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.

R.VIJAYAKUMAR, J.

RJR

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