



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-08-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Revision Petition No.569 of 2023

and

C.M.P.No.4598 of 2023

K.N.Raghavan
S/o.Late K.V Natarajan

..Petitioner

Vs

A.P.Ramakrishnan
S/o.A.K.Pownraj

..Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 03.02.2023 passed in I.A.No.863 of 2022 in O.S.No.276 of 2017 on the file of the learned Subordinate Judge at Palacode.

For Petitioner : Mr.L.Lakshmi Swaroop

For Respondent : Mr.S.C.Vishwanth

ORDER

This civil revision petition has been filed under Article 227 of the Constitution of India against the order passed by learned Subordinate Judge, Palacode, in I.A.No.863 of 2022 in O.S.No.276 of 2017 dated 03.02.2023 wherein the application filed by the petitioner under Order VIII Rule 9 CPC to file additional written statement came to be rejected by the Court below.



2. Heard learned counsel for petitioner and learned counsel for respondent and carefully perused the materials available on record. This Court also went through the impugned order.

3. The respondent is the plaintiff, who filed the suit in O.S.No.276 of 2017 seeking the relief of specific performance. The petitioner initially filed a written statement and took a stand that the relief is hopelessly barred by limitation. During the pendency of the suit, I.A.No.378 of 2017 came to be filed by the petitioner for rejection of plaint on the ground that the suit is barred by limitation. This application was dismissed and aggrieved by the same, C.R.P.No.2674/2018 was filed before this Court, which also came to be subsequently withdrawn on 11.03.2026. The petitioner filed I.A.No.863 of 2022 in O.S.No.276 of 2017 under Order VIII Rule 9 CPC to file additional written statement on the ground that two important issues had to be specifically raised in the written statement viz., time is the essence of the contract and that the plaintiff did not show readiness and willingness by acting upon the agreement of sale. The Court below, by order dated 03.02.2023, dismissed the application and aggrieved by the same, the present revision has been filed before the Court.

4. The main ground urged by learned counsel for petitioner is that the Court below confused itself by taking into consideration the plea of limitation that was taken earlier and equated it with the grounds, which were sought to be



raised by the petitioner by way of filing an additional written statement. Hence, it is submitted that the order passed by the Court below suffers from perversity.

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5. In the considered view of this Court, even if the defendant does not raise the plea of readiness and willingness, it is mandatory under Section 16 of the Specific Relief Act for the plaintiff to establish before the Court that he was always ready and willing to perform his part of the contract. Therefore, even when the Court frames issues in a suit for specific performance, one of the main issue that has to be framed is as to whether the plaintiff was ready and willing to perform his part of the contract. In view of the same, it is not necessary for the defendant to file additional written statement to take this ground specifically. Insofar as the issue regarding the time being the essence of the contract is concerned, paragraph No.5 of the earlier written statement filed, in substance, only emphasizes this issue. Therefore, that will also be one of the ground that will be considered while dealing with the relief sought for by the plaintiff.

6. In the light of the above observations made by this Court, there may not be any requirement to file additional written statement in this case. Consequently, the order passed by the Court below does not require the interference of this Court. It is made clear that the Court below shall bear in mind the above observations while dealing with the suit.



N.ANAND VENKATESH, J.

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This civil revision petition is disposed of in the above terms. No costs.

Consequently, connected miscellaneous petition is closed.

17-08-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

gm

To

The Subordinate Judge,
Palacode.

Civil Revision Petition No.569 of 2023