

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2015

CORAM:

THE HON'BLE MR.JUSTICE D.HARIPARANTHAMAN

CRP (PD) No.3382 of 2015

and

M.P.No.1 of 2015

R.Alamelu

... Petitioner

**Vs.**

Sri Gnanandha Nikethan Trust  
Represented by its Administrator  
P.S.Veeramani,  
Kuladeepamangalam Village,  
Tirukkoyilur Taluk,  
Villupuram District.

... Respondent

**PRAYER :** Petition filed under Article 227 of Constitution of India against the order dated 25.03.2015 made in I.A.No.54 of 2015 in O.S.No.1 of 2011 on the file of the Principal District Judge, Villupuram.

For Petitioner : M/s.P.G.Thiyagu

**ORDER**

The revision petitioner herein is the plaintiff in O.S.No.1 of 2011 on the file of the Principal District Judge, Villupuram. The respondent herein is the fifth defendant in O.S.No.1 of 2011. It is a partition suit.

2. The fifth defendant/respondent herein, who is the purchaser of some shares involved in the suit schedule properties, became a party to the suit in the

year 2011.

3. In the said suit, issues were framed and the plaintiff/revision petitioner herein was examined as P.W.1 and when the case was posted for cross examination of P.W.1., the fifth defendant filed an Application in I.A.No.54 of 2015 in O.S.No.1 of 2011 to receive additional written statement under Order 8 Rule 9 of C.P.C. and the said application was allowed by the Trial Court, by an order dated 25.03.2015.

4. Aggrieved against the said order, the present Civil Revision Petition has been filed.

5. The learned counsel appearing for the revision petitioner has vehemently contended that after the issues were framed and P.W.1 had entered into box, the Trial Court ought not have permitted the fifth defendant to file additional written statement. In support of his case, the learned counsel has also relied on the Judgment of this Court reported in **1998 (II) CTC 94 (N.Srinivasan vs. Muthammal)**.

6. I have considered the submissions made by the learned counsel appearing for the revision petitioner.

7. In the impugned order, the Trial Court has held that no prejudice would be caused to the plaintiff by allowing the application. It is further held that P.W.1 is yet to step into the witness box.

8. It seems that P.W.1 only has filed proof affidavit. At this juncture, the fifth defendant/respondent herein filed the application in I.A.No.54 of 2015 in O.S.No.1 of 2011 to receive additional written statement.

9. As per Order 8 Rule 9 of C.P.C., the Trial Court is vested with the power to receive additional written statement at any time, but, to fix a time of not more than thirty days for presenting the same.

10. Therefore, it is useful to refer Order 8 Rule 9 of C.P.C. and the same is extracted hereunder:

*“9. Subsequent pleadings - No pleading subsequent to the written statement of a defendant other than by way of defence to set-off or counter-claim shall be presented except by the leave of the Court and upon such terms as the Court thinks fit; but the court may at any time require a written statement or additional written statement from any of the parties and fix a time of not*

*more than thirty days for presenting the same.”*

11. The Judgment of this Court reported in **1998 (II) CTC 94 (N.Srinivasan vs. Muthammal)** relied on by the learned counsel appearing for the revision petitioner cannot be applicable to the facts of the present case. Because, in that case, this Court came to the conclusion that the defendant therein was not a *bona fide* person and hence, he cannot be permitted to file additional written statement. Hence, the said Judgment is not applicable to the facts of the present case.

12. But, in the case on hand, the fifth defendant is a third party purchaser of some shares involved in the suit schedule properties and therefore, he wanted to file additional written statement.

13. Considering the same, in my view, the Trial Court has not committed any error in allowing the application. Hence, the Civil Revision Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes

Internet: Yes

To

The learned Principal District Judge,  
Villupuram.

D.HARIPARANTHAMAN, J.

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