

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.4572 of 2014

ORDER:

Heard Sri V.Sudhakar Reddy, learned counsel for the petitioner and Sri A.Radha Krishna, qlearned counsel for the respondents.

2. This Revision Petition is filed challenging the order dt.27-08-2014 in I.A.No.798 of 2013 in O.S.No.66 of 2013 of the Senior Civil Judge, Puttur, refusing to grant relief to the petitioner/plaintiff in the said suit to file rejoinder.

3. In the impugned order, the Court below, after referring to Order 8 Rule 9 CPC, held that there can only be additional pleading by the defendant and not by the plaintiff.

4. Order 8 Rule 9 CPC states that no pleading subsequent to the Written Statement by the defendant other than by way of defence to set off in the counter affidavit shall be presented, except by the leave of the Court.

5. In my considered opinion, a reading of the said provision does not indicate that only an additional Written Statement can be received from the defendant and not a rejoinder by the plaintiff, particularly when leave

of the Court is sought to file a rejoinder. Further, the Court below has observed that new pleas cannot be raised in rejoinder. There is no such restriction in law and only a plea which is inconsistent with the plaint cannot be raised in rejoinder in view of Order 6 Rule 7 CPC. The Court below has also observed that the petitioner need not file rejoinder. This is also not correct. It is not for the Court to suggest to a party whether or not he needs to file a rejoinder. Therefore, the impugned order cannot be sustained.

6. Accordingly, the Civil Revision Petition is allowed and the order dt.27-08-2014 in I.A.No.798 of 2013 in O.S.No.66 of 2013 of the Senior Civil Judge, Puttur is set aside and the said I.A. is allowed. No costs.

7. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 07-09-2015

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