

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2016

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.208 of 2014

and

M.P.No.1 of 2014

1. V.C.Duraisamy

2. V.C.Eswaramoorthy

... Petitioners/Defendants

.. Vs ..

V.Palanivel

... Respondent/Plaintiff

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and final order dated 16.07.2013 passed in I.A.No.1095 of 2012 in A.S.No.323 of 2005, on the file of the District Munsif-cum-Judicial Magistrate, Perundurai.

For Petitioners : Mr.P.Parthi Kannan
for M/s.A.K.Kumarasamy
For Respondent : Served. No Appearance

- - - - -

ORDER

The Civil Revision Petition is directed against an order refusing to take on file the additional written statement filed by the

defendants in a suit for specific performance.

2. A report from the Director of Forensic Science Department, Chennai, was obtained by the plaintiff. Thereafter, additional written statement has been filed. The reason for rejection of the application by the learned District Munsif-cum-Judicial Magistrate, Perundurai, is that there was no specific denial in the written statement about the signatures on the sale agreement. The only defence taken was that the defendants had signed in certain blank papers at the time of obtaining loan from the plaintiff. Now, in the additional written statement, the defendants have denied their signatures found in the sale agreement which was rejected by the learned trial Judge stating that it is quite contradictory to the pleadings in the original written statement. No doubt, the defendants can take inconsistent pleas in the written statements. The suit being one for specific performance which is equitable relief, the defendants also should be given an opportunity to file their additional written statement, though it is after the commencement of the trial. The reason for dismissal is only inconsistent plea taken

by the defendants and no harm would be caused to the plaintiff, if the additional written statement is allowed to be received and taken on file. But considering the delay in filing the said additional written statement that too, after the commencement of the trial, the plaintiff has to be sufficiently compensated for the prejudice that may be caused to him.

3. Accordingly, the Civil Revision Petition is allowed. The order passed by the learned trial Judge in I.A.No.1095 of 2012 in O.S.No.323 of 2005, dated 16.07.2013 is set aside. I.A.No.1095 of 2012 shall stand allowed on payment of cost of Rs.3,000/- (Rupees Three Thousand only) payable by the defendants/revision petitioners herein to the plaintiff/respondent herein, within a period of four weeks from the date of receipt of a copy of this order.

Consequently, the connected miscellaneous petition is closed. However, there shall be no order as to costs.

20.12.2016

Index : Yes/No

Internet : Yes/No
jrl

PUSHPA SATHYANARAYANA, J.

Jrl

To

The District Munsif-cum-Judicial Magistrate,
Perundurai.

C.R.P.(PD).No.208 of 2014

20.12.2016

<http://www.judis.nic.in>