

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.12.2016

Coram

The Hon'ble Mr. Justice **S.M.SUBRAMANIAM**

C.R.P.(PD) No.444 of 2014 &
M.P.No.1 of 2014

Ranganathan

.. Petitioner

Vs

1.Mariappan

2.Minor Anandakumar
(R2 rep. By next friend and
natural guardian, father-R1)

.. Respondents

Prayer :- Civil Revision Petition filed under Article 227 of the Constitution of India as against the order dated 13.08.2013, passed in I.A.No.304 of 2013 in O.S.No.33 of 2009, on the file of the Subordinate Court, Sankari.

For petitioner .. Mr.P.Jagadeesan

For Respondents .. No appearance

ORDER

The present Civil Revision Petition has been filed challenging the order passed in I.A.No.304 of 2013 in O.S.No.33 of 2009, dated 13.08.2013, by the learned Subordinate Judge, Sankari.

2.The plaintiff in O.S.No.33 of 2009, is the petitioner in the present Civil Revision Petition and the Suit was filed for specific performance. The defendants/respondents filed a written statement and the Suit was posted for trial.

3.The learned counsel appearing for the petitioner contended that P.W.1 filed his proof affidavit and thereafter the Suit was listed for cross examination on 17.07.2012. At that point of time, the respondents/defendants filed I.A.No.304 of 2013, seeking permission to file an additional written statement.

4.The affidavit filed in support of I.A.No.304 of 2013, states that the 1st respondent/defendant met his counsel, had discussions about the Suit and only at that time came to know that the plaintiff filed a reply statement on 18.01.2013, in respect of some new pleas. As

such he wanted to file an additional written statement narrating the true facts.

5. On a reading on the contentions, it is unambiguous that the respondents/defendants have filed the Application seeking permission of the trial Court to file additional written statement only with an idea to improve the pleadings and introduce new facts. Introduction of new facts and improving the case need not be allowed after the commencement of the trial. Therefore, the respective parties cannot be allowed to improve the case one after another by filing various Applications and if at all such Applications are to be allowed, they have to establish before the trial Court that such facts were not in their knowledge at the time of filing of the Suit. In other words, the *bonafide* facts which were not available at the time of filing of the Suit or the written statement, the same may not be allowed at the subsequent stage.

6. In the present case on hand, the respondents/ defendants are unable to establish that the facts stated in the additional written statement were not within the knowledge at the time of filing of the written statement. Such being the facts and circumstances of the

case, this Court is inclined to consider the grounds raised in the Revision Petition.

7.In the result, the Civil Revision Petition is allowed and order passed in I.A.No.304 of 2013 dated 13.0-8.2013, is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

09.12.2016

rpa

To

The learned Judge,
Subordinate Court, Sankari.

**S.M.SUBRAMANIAM, J.
Rpa**

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