

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2016

CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

C.R.P.(PD) No.1864 of 2016
and
C.M.P.No.9731 of 2016

Balaji Singh ... Petitioner

vs.

N.Panchantcharam ... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 30.03.2016 in I.A.No.1273 of 2015 in O.S.No.88 of 2009 on the file of the District Munsif, Tambaram.

For Petitioner : Mr.N.Manokaran
For Respondent : Mr.T.Thiyagarajan

ORDER

The respondent filed a suit for injunction originally. Subsequently, it was amended by incorporating a prayer for mandatory injunction. The petitioner failed to file Additional Written Statement within the time permitted by the Court. Subsequently, the petitioner filed an Interlocutory Application in I.A.No.1273 of 2015 to permit him to file Additional Written Statement. The Application was dismissed by the Trial Court on the ground of abnormal delay.

Feeling aggrieved, the petitioner is before this Court.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3. There is no dispute that the plaint was amended by the respondent pursuant to the order passed by the Trial Court. It is also a matter of record that the petitioner failed to file Additional Written Statement within the time permitted by the Trial Court. The petitioner has got his own reasons for delay in filing the Additional Written Statement. According to him, his erstwhile counsel died and only after appointing a new counsel, it was brought to his knowledge that he has to file Additional Written Statement.

4. The suit is in the evidence stage. The learned trial Judge observed that even without Additional Written Statement, evidence can be adduced. I do not subscribe to the said view. No amount of evidence can be adduced by the parties, without there being a pleading. Such being the legal position, the trial Judge was not correct in observing that even without pleadings, evidence can be adduced by the parties. In any case, the matter is now pending for

trial.

5. The order dated 30.03.2016 in I.A.No.1273 of 2015 in O.S.No.88 of 2009 on the file of the District Munsif, Tambaram, is set aside. I.A.No.1273 of 2015 is allowed as prayed for.

6. The trial Judge is directed to give an opportunity to the respondent to reopen their side for the purpose of adducing further evidence if he is so advised. Similarly, liberty is given to the petitioner to reopen his side to adduce further evidence if he is so advised.

7. The Civil Revision Petition is allowed as indicated above. No costs. The connected Miscellaneous Petition is closed.

8. Since the suit of the year 2009, the learned trial Judge is requested to dispose of the suit as expeditiously as possible, and in any case, on or before 31.3.2017.

Index : yes / no

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Internet :yes / no
asvm

K.K.SASIDHARAN, J.

(asvm)

To

The District Munsif, Tambaram.

C.R.P.(PD) No.1864 of 2016
and
C.M.P.No.8847 of 2016

23.09.2016