

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) NO.3432 OF 2016
AND CMP NO.17426 OF 2016

N.Chinnusamy ... Petitioner

Versus

1.C.Anand
2.C.Palaniammal ... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 20.09.2016 made in I.A.No.656 of 2015 in O.S.No.356 of 2007 on the file of the learned Sub Court, Namakkal.

For Petitioner : Mr.N.Manokaran

ORDER

The petitioner filed a suit for partition and rendition of accounts against his son and wife, who are the respondents herein

respectively. The suit was contested by the respondents by filing written statement. Thereafter, the respondents filed an application in I.A.No.656 of 2015 invoking Order VIII Rule 9 CPC. The application was allowed by the learned Trial Judge primarily on the ground that the request was made even before the commencement of the trial. The said order is under challenge in this Civil Revision Petition.

2. Heard the learned counsel for the petitioner.

3. The Trial Court having found that the respondents wanted to plead that the petitioner has retired from the firm on 1 April 2005 itself and as such, he is not entitled for a decree either for partition or rendition of accounts, allowed the application. There is no dispute that the interlocutory application was filed even before the commencement of trial. The learned Trial Judge passed a discretionary order under Order VIII Rule 9 CPC. I do not find any error or illegality in the order passed by the learned Trial Judge warranting exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

4. The learned counsel for the petitioner submitted that in view of the additional pleadings filed under Order VIII Rule 9 CPC, the

petitioner should also be permitted to file a reply written statement. It is open to the petitioner to file an application to receive the reply statement before the Trial Court. The Trial Court is directed to consider and dispose of the same taking into account the fact that the respondents were permitted to file subsequent pleadings.

5. I dismiss the Civil Revision Petition with the above observation. No costs. Consequently, connected civil miscellaneous petition is closed.

08.11.2016

TK

To

The Sub Court
Namakkal.

K.K.SASIDHARAN, J.

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