

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

**CRP(PD)No.1729 of 2014
and
M.P.No.1 of 2014**

1.P.Ramasamy
C.S.Chinnasamy Gowder (deceased)
2.R.Chinnasamy
3.S.V.Ramachandran
4.B.R.Palanisamy
P.S.Rangasamy (deceased)
5.K.R.Chinnaswamy
U.V.Rangasamy (deceased) .. Petitioners

Vs

1.P.R.Govindarajulu
2.G.Arunkumar
3.Perianaickenpalayam Town Panchayat,
rep. by its Executive Officer,
Coimbatore.
4.The District Collector,
Coimbatore.
5.The Assistant Commissioner,
H.R. & C.E. Admn., Department,
Dr.Balasundaram Road,
Coimbatore – 18.

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6.The Joint Commissioner,
H.R. & C.E. Admn., Department,
Dr.Balasundaram Road,
Coimbatore – 18.

7.The Commissioner,
H.R. & C.E. Department,
Chennai.

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order passed in I.A.No.1361 of 2013 in O.S.No.968 of 2004 on the file of the III Additional District Munsif, Coimbatore, dated 24.01.2014.

For Petitioners : Mr.V.Sivakumar

For Respondents : Mr.Hariharan (for R2 and R3)
for Mr.V.Nicholas

Mr.G.Sugumaran (for R1)

No Appearance (for R4 to R7)

ORDER

The instant civil revision petition is filed by the revision petitioners, who are the plaintiffs in the original suit as against the fair and decreetal order passed in an Interim Application No.1361 of 2013 in O.S.No.968 of 2004 dated 24.01.2014 by the learned III Additional District Munsif, Coimbatore in an application filed by the petitioners to file reply statement under Order VIII Rule IX of the Code of Civil Procedure. The reason adduced in the said petition was that as their

previous Counsel had not discussed with them to file the reply statement. Further, their present Counsel who was engaged on 28.10.2013 and it was found the averments made in the written statement are to be suitably replied as per law. At the same time as some of the parties to suit are died, the reply statement was unable to be filed within time, hence they sought the permission of the Court to permit them to file reply statement.

2.In the counter statement filed by the respondents, it was contended that the delay of 13 long years will definitely disentitle the petitioners/plaintiffs to file their reply statement. Further, it is also averred in the counter that the reason for the delay of 13 years have not been properly explained, but the said application is filed only with an intention to drag the suit proceedings.

3.I heard Mr.V.Sivakumar, learned counsel for the petitioners, Mr.Hariharan for Mr.V.Nicholas, learned counsel for the respondents 2 and 3 and Mr.G.Sugumaran, learned counsel for the 1st respondent and perused the materials available on record. No representation on behalf of the respondents 4 to 7.

4.It is true that the parties concerned to protect their interest over the suit claim to file their reply statement or additional written statement according to the circumstances but if warranted. In the instant suit, the application sought for the permission to file the reply statement is filed nearly after 13 long years as described by the learned counsel for the respondents, but the perusal of the affidavit filed along with the petition does not have any material as to why the petitioners preferred the said application with inordinate delay. When an application is preferred, it must not only be supported by an affidavit, but the said affidavit must contain materials to support their claim. Here the perusal of the affidavit does not have any satisfactory contents to consider the claim to allow the petition. Further, the defendants have filed their written statement in the year 2000 itself with the knowledge of the petitioners. Hence, miscarriage of justice would be caused to the respondents if the revision petition is allowed.

5.In the result:

(a) this civil revision petition is dismissed, by confirming the order in I.A.No.1361 of 2013 in O.S.No.968 of 2004, dated 24.01.2014, passed by the learned III Additional District Munsif, Coimbatore;

(b) the learned III Additional District Munsif, Coimbatore, is hereby directed to take up the suit on day to day basis, without giving any adjournment to either parties and to dispose of the same within a period of two months from the date of receipt of a copy of this order, since the suit is for the year 2004. Both the parties are hereby directed to give their fullest co-operation for early disposal of the suit.

23.02.2017

vs

Note: Issue order copy on 28.01.2019

Index: Yes/No

Internet: Yes/No

To

The III Additional District Munsif, Coimbatore.

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M.V.MURALIDARAN,J.

VS



**Pre-delivery order made in
CRP(PD)No.1729 of 2014 and
M.P.No.1 of 2014**

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23.02.2017

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