

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2017

CORAM

THE HONOURABLE TMT.JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (PD) No.516 of 2017

1. C.Mohanasundaram
2. S.P.Muthusamy (Died)
3. S.M.Samiyahal
3. S.M.Balasubramani
4. S.M.Sathya

.. Petitioners

Versus

1. R.Selvakumar
2. Ashok Kumar
3. K.V.Chinnasamy

.. Respondents

This Civil Revision Petition filed Under Article 227 of the Constitution of India, against the fair and decretal order dated 09.03.2016 made in I.A.No.538 of 2014 in O.S.No.46 of 2007 on the file of the learned District Munsif Cum Judicial Magistrate, Perundurai, Erode District.

For petitioner : Mr.N.Manokaran

ORDER

The plaintiffs are the petitioners herein. The suit was filed for declaration and permanent injunction. In the suit, the defendants have filed their written statement for which the petitioners have filed their reply statement. The trial Court refused to entertain such reply statement by the order dated 09.03.2016 and proceeded with the trial. Challenging the said order, the petitiners have filed the present Civil Revision Petition.

2. It is seen from the records that already an order was passed by the trial court in the year 2012 to jointly try the suit in O.S.No.53 of 2007 along with the present suit in O.S. No. 46 of 2007. The suits were posted for cross-examination of PW1 in O.S. No. 53 of 2007 and at that time, the plaintiffs in the present suit have filed their reply statement to the written statement. The trial Court has dismissed the application on the ground that the petitioners/plaintiffs have not filed reply statement within time and it was filed after trial was commenced. Further, even the reply statement contains a mere denial and it does not contain any other averments.

3. It is seen from the application in I.A. No. 538 of 2014 that the plaintiffs have not given explanation for filing the reply statement belatedly. Further, at the time when the suit was posted for cross-examination of PW1, the instant application has been filed to permit them to file a reply statement to the written statement. As the reply statement contains only mere denial of facts contained denying the averments contained in the additional written statement filed by the defendants, the trial Court has rightly dismissed the applicatino filed by the petitioners herein. However, it is well open to the petitioners/plaintiffs to raise the points raised in the reply statement at the time of the arguments in the suit.

4. With the above direction, this Civil Revision Petition is disposed of.
No costs. Consequently, connected Miscellaneous Petition is also closed.

elp

01.03.2017

Index : Yes/No
Internet : Yes/No

To

The District Munsif Cum Judicial Magistrate
Perundurai,
Erode District.

PUSHPA SATHYANARAYANA, J.

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