

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(PD).Nos.799 & 800 of 2017
and C.M.P.No.3949 of 2017
in C.R.P.(PD).No.799 of 2017

Narayana Iyer

... Petitioner in both C.R.Ps

Vs.

M/s.Anandammal Adheena Trust,
Villianur, Puducherry,
represented by its President
Selvanathan

... Respondent in both C.R.Ps

Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decretal order passed in I.A.Nos.36 & 37 of 2015 in O.S.No.465 of 2002 dated 07.09.2016 on the file of the II Additional District Munsif, Puducherry.

For Petitioner in both C.R.Ps : Mr.S.Sudarshan

COMMON ORDER

Challenging the orders passed in I.A.No.36 of 2015 and I.A.No.37 of 2015 in O.S.No.465 of 2002 on the file of the II Additional District Munsif, Puducherry, the defendant has filed the above Civil Revision Petitions.

2.The plaintiff filed the suit in O.S.No.465 of 2002 for recovery of possession.

3.The suit was filed in the year 2002. In the year 2003, the defendant filed his written statement and has been contesting the suit. The trial Court framed the issues and after the completion of the trial and when the suit was reserved for judgment, the defendant took out applications in I.A.No.36 of 2015 to reopen the proceedings in the suit and I.A.No.37 of 2015 to permit him to file additional written statement. When the suit was pending since 2002, the defendant has chosen not to file any additional written statement till the year 2015, only after the completion of the oral evidence and when the suit was reserved for judgment, the present applications were filed by the defendant for reopening the proceedings and to permit him to file an additional written statement. The defendant should have filed the applications at the earliest point of time, more so, when he has filed the written statement in the year 2003 itself. The trial Court, taking into consideration the case of both parties, rightly dismissed both the applications finding that the applications were filed only when the suit was reserved for judgment.

4.Though the learned counsel appearing for the petitioner submitted

that the suit was not reserved for judgment, the petitioner has not raised it as a ground in the grounds of the Civil Revision Petitions.

5.The learned counsel appearing for the petitioner also relied upon a judgment reported in ***(2009) 15 Supreme Court Cases 528 [Olympic Industries Vs. Mulla Hussainy Bhai Mulla Akberally and others]*** wherein the Apex Court held as follows:

“...

17.As noted hereinafter, the appellant had already stated in his application for acceptance of the additional counter-statement the reasons for taking such new plea viz., he could trace out the lease deed pertaining to the lease only when he was cleaning the boxes. The respondents have also not disputed as to the existence of the lease deed, only they are disputing the filing of the additional counter-statement at such a belated stage. This being the position, we are of the view that even if the examination of PW1 or his cross-examination was over, then also, it was open to the Court to accept the additional counter-statement filed by the appellant by awarding some costs against the appellant.”

In the said judgment, an application seeking for filing of additional counter statement was filed during the examination of P.W.1. In that case, the Apex Court allowed the application and permitted the respondent to file

additional counter statement. In the case on hand, though the suit was pending for more than 15 years and when the defendant has filed his original written statement in the year 2003, after a lapse of more than 12 years, he has come forward to file the present applications seeking to file the additional written statement, that too, when the suit was reserved for judgment. In these circumstances, the judgment relied upon by the learned counsel for the petitioner is not applicable to facts and circumstances of the present case. Taking note of all these aspects, the trial Court has rightly dismissed the applications.

6.I do not find any error or irregularity in the orders passed by the trial Court. The Civil Revision Petitions are devoid of merits and are liable to be dismissed. Accordingly, the Civil Revision Petitions are dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
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06.03.2017

To

The II Additional District Munsif,
Puducherry.

M.DURAISWAMY,J.
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