



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2017

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P(PD) (MD)No.1085 of 2017

Veerayee

.. Petitioner

Vs.

Karunanithi

..Respondent

PRAYER: This Civil Revision Petition is filed under Section 227 of Constitution of India to allow the Civil Revision Petition and set aside the Fair and Decreetal Order dated 27.02.2017 made in I.A.No.836 of 2016 in O.S.No.154 of 2006 on the file of the Sub Court, Pudukkottai.

For Petitioner : Ms.M.Krishnaveni

ORDER

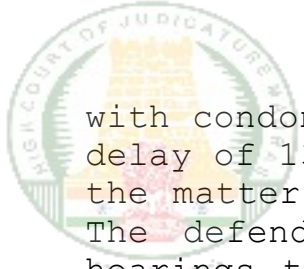
The Civil Revision Petition has been filed against the Fair and Decreetal Order dated 27.02.2017 made in I.A.No.836 of 2016 in O.S.No.154 of 2006 on the file of the Subordinate Court, Pudukkottai.

2.This revision petition is directed against the dismissal of the application filed by the defendant to receive additional written statement, after the suit was tried and reserved for judgment.

3.The contention of the revision petitioner is that her previous counsel, who filed the written statement has failed to bring certain facts to the notice of the Court and therefore, it is essential and necessary to file additional written statement placing before the Court all the omitted facts.

4.According to the revision petitioner, the suit property was mortgaged to the State Bank of India, Alangudi Branch and the facts are well known to the plaintiff. Despite that he has filed a suit for specific performance, as if the defendant has entered into a sale agreement in respect of the suit property and has received a sum of Rs.3,00,000/- (Rupees Three Lakhs only) towards sale consideration.

5.The Trial Court, after considering the pleading, has decreed exparte on 31.10.2006 and after a lapse of four years, the defendant filed an application to set aside the exparte decree



with condone delay petition. The Court was pleased to condone the delay of 1311 days and to set aside the exparte decree and took up the matter for trial. P.W.1 was examined in chief on 11.11.2014. The defendant, who is the present revision petitioner took 10 hearings to complete the cross examination and few more hearings to let in evidence on her behalf. At last, on 03.08.2016, the defendant's side evidence was closed and the matter was posted on 06.09.2016 for Judgment, after hearing the arguments of both sides. At this juncture, this application has been filed to reopen and recall the witness P.W.1. That petition was allowed on 29.09.2016 and the case was adjourned to 07.10.2016 for further proceedings. While so, the instant I.A.No.836 of 2016 has been filed to receive additional written statement which did not find favour with the trial Court and the application was dismissed setting out the reasons.

6. The learned Counsel appearing for the revision petitioner submitted that an opportunity may be given to the defendant to put forth her defence in complete form by way of additional written statement, since in the earlier written statement, the factum of mortgaging the suit property in the bank has not been brought to the notice of the Court. To find out whether there was any justification in the request, this Court went through the proposed additional written statement. This Court find that the defendant has not even stated in the additional written statement when the suit property was mortgaged with State Bank of India, Alangudi Branch and what is the current status of the said mortgage with bereft of facts and details. The defendant wants to file an additional written statement after a delay of ten years and more particularly when the matter was reserved for pronouncing judgment. I see no bonafide in her attempt.

7. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Pudukkottai.

+1 cc to Ms.M.Krishnaveni , Advocate in SR.No. 59094

RM/SKM

AE/MR/SAR1/21.06.2017/2P/3C



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