



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.11 of 2017 (PD)

&

C.M.P. (MD) No.42 of 2017

Vijayarani, W/o.K.M.Natarajan .. Petitioner/Petitioner/1st
Defendent
Vs.

K.Palanisamy .. Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 20.10.2016 made in I.A.No.210 of 2016 in O.S.No.35 of 2013 on the file of the Principal District Court, Karur.

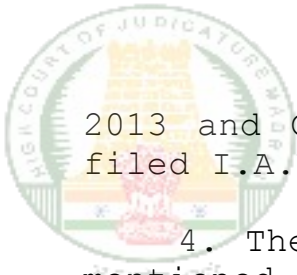
For Petitioner : Mr.A.Arumugam

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 20.10.2016 made in I.A.No.210 of 2016 in O.S.No.35 of 2013 on the file of the Principal District Court, Karur.

2. The petitioner is the first defendant and the respondent is the plaintiff in the suit in O.S.No.35 of 2013 on the file of the Principal District Court, Karur. The respondent filed the suit for preliminary mortgage decree. The petitioner filed I.A.No.210 of 2016 praying to receive additional written statement. According to the petitioner, she filed O.S.No.194 of 2013 on the file of the Principal District Court, Erode, for setting aside the sale deed, dated 04.01.2013, against one Vasudevan, Paneerselvam and Jagadeesh and for permanent injunction. The second defendant in O.S.No.194 of 2013 is the son of the plaintiff in the present suit [O.S.No.35 of 2013]. They have colluded together, created and fabricated the suit documents and filed the suit. Therefore, filing of additional written statement is necessary to set out the facts.

<https://hcservices.courts.gov.in/hcservices/>
3. The respondent filed counter affidavit and opposed the said application and submitted that both the suits in O.S.No.194 of



2013 and O.S.No.35 of 2013 are not connected and the petitioner filed I.A.No.210 of 2016 after the trial has commenced.

4. The learned Principal District Judge considering averments mentioned in the affidavit and the counter affidavit and also considering the materials available on record, dismissed the application holding that the petitioner has already taken a stand about the suicide committed by her son in paragraph 17 of the original written statement already filed by her and has taken a contradictory statement in the additional written statement and O.S.No.194 of 2013 is not connected with the present suit.

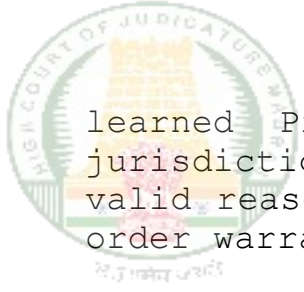
5. Against the said order of dismissal, dated 20.10.2016, the petitioner has come out with the present Civil Revision Petition.

6. The learned counsel for the petitioner submitted that the learned Principal District Judge failed to see that both the suits are interlinked. The respondent colluded with the defendants in O.S.No.194 of 2013 filed by the petitioner and others fabricated suit documents and filed the suit claiming huge amounts. The learned Principal District Judge ought to have given an opportunity for the petitioner to file additional written statement and defend her case. The learned Principal District Judge failed to consider the fact that both the suits are interlinked and ought to have given opportunity to the petitioner to file additional written statement.

7. The learned counsel for the petitioner relied on a judgement of this Court reported in 1999 (3) LW 458 [Subramanian and others Vs. Jayaraman] and submitted that liberal approach must be there in receiving additional written statement, otherwise opportunity will be shut down to the parties to put forth their case.

8. I have heard the learned counsel for the petitioner and carefully perused the materials available on record.

9. The contention of the learned counsel for the petitioner that both the suits are interlinked and the respondent in the present suit colluded with other defendants in O.S.No.194 of 2013 fabricated the documents and filed the present suit, has been considered by the learned Principal District Judge. The learned Principal District Judge has also taken note of the fact that the stand taken by the petitioner in the original written statement and in additional written statement are contradictory to each other and the petitioner is only repeating the averments made in the original written statement in the additional written statement to be filed. It is not the case of the petitioner that the facts, <https://hcservices.hcscourts.gov.in/hcservices/> to introduce through the additional written statement were not within her knowledge at the time of filing the original written statement. Considering all the materials, the



learned Principal District Judge has properly exercised her jurisdiction and dismissed the application by giving cogent and valid reason. There is no illegality or irregularity in the said order warranting interference by this Court.

10. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Principal District Judge,
Karur.

Copy to : The Section Officer, V.R Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.A.ARUMUGAM, Advocate in SR. No.1403

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