



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2017

CORAM:

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.239 of 2017 (PD)

and

C.M.P (MD) No.1102 of 2017

Ramachandran

...Petitioner/Petitioner/Defendant

Vs

Marimuthu

..Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed, under Article 227 of Constitution of India, to set aside the order and decreetal order, dated 02.11.2016 made in I.A.No.770 of 2016 in O.S.No.108 of 2010, on the file of the Principal District Munsif, Kumbakonam and allow the Civil Revision Petition.

For Petitioner : Mr.A.Saravanan

ORDER

The petitioner has filed this Civil Revision Petition to set aside the fair and decreetal order, dated 02.11.2016 made in I.A.No.770 of 2016 in O.S.No.108 of 2010, on the file of the Principal District Munsif, Kumbakonam.

2.The petitioner is the defendant and the respondent is the plaintiff. The respondent filed a suit in O.S.No.108 of 2010 for recovery of possession and arrears of rent. The petitioner filed written statement on 03.06.2010 and contesting the suit. Trial commenced. Evidence on behalf of the respondent was concluded. The suit was posted for evidence of the petitioner. The petitioner/defendant filed I.A.No.433 of 2014 for impleading the Special Tahsildar, Adi Dravidar Welfare as 2nd defendant in the suit. The said application was dismissed on 16.09.2014 after contest. The petitioner/defendant filed I.A.No.970 of 2014 for stay of the suit on the ground that he was intending to file a revision against the order of dismissal of I.A.No.433 of 2014. The said application was allowed on 05.12.2014 and time was granted to the petitioner/defendant to file a revision. But, the petitioner/defendant did not file any revision.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The petitioner filed I.A.No.398 of 2016 to recall P.W.1. The



said application was allowed. On 29.08.2016, counsel for the petitioner/defendant cross-examined the P.W.1 and suit was posted to 16.09.2016, for further cross-examination. At that stage, the petitioner/defendant filed the present application in I.A.No.770 of 2016 seeking permission to file additional written statement.

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4. According to the petitioner, certain facts were not included in the original written statement and unless Additional written statement is filed, he will be put to irreparable loss and hardship and no prejudice will be caused to the respondent/plaintiff if the permission sought for is granted.

5. The respondent/plaintiff filed a counter and opposed the said application, submitting that the petitioner/defendant has not given any reason for the delay in filing such an application. The suit is posted for evidence on his behalf. The averments contained in the additional written statement are contrary to the averments made in written statement filed earlier.

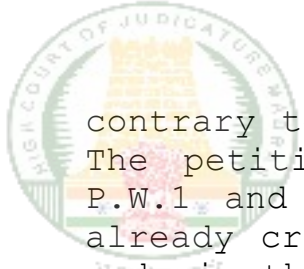
6. The learned Judge considering the averments made in the affidavit and counter affidavit dismissed the application holding that in the additional written statement, the petitioner has taken contrary statement and if permission is granted, that will prejudice to the respondent/plaintiff..

7. Against the said order of dismissal, the petitioner/defendant has filed the present Civil Revision Petition.

8. The learned counsel for the petitioner submitted that to meet the ends of justice, an opportunity ought to have been given and by allowing the application without considering the merits of the contentions made in the additional written statement. The respondent has made a false statement in the plaint and therefore, additional written statement is necessary to cross-examine the respondent in respect of the averments made in the plaint. Permission to file additional written statement under Order 8 Rule 9 of C.P.C., can be granted at any stage of the suit and the application should be considered liberally.

9. I have heard the learned counsel appearing for the petitioner and also perused all the materials available on record.

10. The petitioner has filed the present application for permission to file additional written statement after conclusion of evidence of the respondent/plaintiff and after petitioner's chief examination. The learned Judge has considered the averments made in the original written statement as well as the additional written statement now sought to be filed and held that the contentions raised in the additional written statement are



contrary to the averments made in the original written statement. The petitioner has already filed I.A.No.398 of 2016 to recall P.W.1 and the said application was allowed. The petitioner has already cross-examined the respondent in respect of the averments made in the written statement. The learned Judge has further held that the petitioner, in his proof affidavit itself even prior to his filing of the present application, has stated about the averments made in Paragraphs 3 and 4 of his additional written statement and also further held that the present application is filed only to get over the legal position that no evidence can be let in without pleadings.

11.The learned Judge took note of the fact that the petitioner filed various applications during trial and held that present application is filed only to drag-on the proceedings and additional written statement is not only inconsistent to earlier written statement, but also it is mutual destructive in nature and if permission is granted, it will prejudice the respondent. It is well settled that permission can be granted for filing of additional written statement at any stage of the suit and application cannot be dismissed on the sole ground of delay. At the same time, it is well settled that permission to file additional written statement should not be granted when it causes prejudice to the other party. In the circumstances, there is no illegality or irregularity warranting interference by this Court.

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

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

The Principal District Munsif,
Kumbakonam.

+1 cc to MR.A.SARAVANAN, Advocate SR.No.6487

C.R.P (MD) No.239 of 2017 (PD)
06.02.2017

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