



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.250 of 2017 (PD)

and

C.M.P.(MD)No.1144 of 2017

Muthulakshmi

...Revision Petitioner/ Petitioner
/Plaintiff

Vs

1.Thangaraj
2.Murugeswari

...Respondents/ Respondents /
Defendants

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to allow this Civil Revision Petition by setting aside the order passed in I.A.No.399 of 2016 in O.S.No.13 of 2014, dated 22.10.2016 by the District Munsif Court, Virudhunagar.

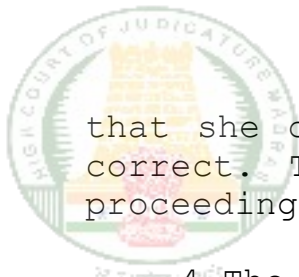
For Petitioner : Mr. P. Senthur Pandian

ORDER

The petitioner has filed this Civil Revision Petition to set aside the order passed in I.A.No.399 of 2016 in O.S.No.13 of 2014, dated 22.10.2016 by the District Munsif Court, Virudhunagar.

2.The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed suit in O.S.No.13 of 2014 before the District Munsif, Virudhunagar for permanent injunction. The respondents filed written statement and are contesting the suit. The petitioner filed I.A.No.399 of 2016 for permission to file reply statement under Order 8 Rule 9 and Section 151 of C.P.C., with regard to two settlement deeds stated in the written statement and cancellation of said settlement deeds. According to the petitioner, by mistake these facts were not mentioned in the plaint.

3.The respondents filed counter and opposed the said application on the ground that they have filed written statement in the year 2014 itself mentioned the two settlement deeds executed by the petitioner and contention of the petitioner



that she came to know about the settlement only recently, is not correct. The respondents also stated that only to drag on the proceedings, the petitioner has filed the present application.

4. The learned Judge considering all the averments made in the affidavit and counter affidavit and materials available on record, dismissed the application holding that the petitioner is not entitled to permission to file reply statement. The petitioner ought to have filed a petition for amendment of the plaint.

5. Against the said order of dismissal, dated 22.10.2016 passed in I.A.NO.399 of 2016, the petitioner has come out with the present Civil Revision Petition.

6. The learned counsel appearing for the petitioner submitted that petitioner has made out a case for filing reply statement. In any event, instead of dismissing the application for permission to file reply statement, the learned Judge ought to have treated the petition as petition for amendment and allowed the application.

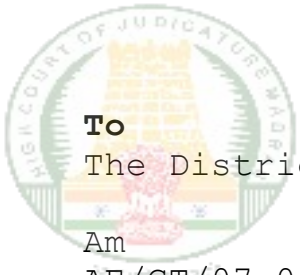
7. I have heard the learned counsel appearing for the petitioner and also perused all the materials available on record.

8. From the materials it is seen that the petitioner filed suit for injunction. The respondents filed written statement and are contesting the suit. In the counter filed by the respondents they have stated that suit on earlier occasion was dismissed for default and subsequently, it was restored to file. Again the suit was listed for trial. At that stage, petitioner filed application only to fill up the lacuna and drag on the proceedings. This averment is not disputed by the petitioner. The petitioner is seeking permission to file reply statement on the ground that certain facts were not mentioned in the plaint by mistake. In the circumstances, the learned Judge has rightly held that the petitioner ought to have filed an application to amend the plaint and permission for reply statement is not maintainable. There is no illegality or irregularity in the said finding warranting interference by this Court.

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

Sd/-
Assistant Registrar(C)

/True Copy/



To
The District Munsif, Virudhunagar.

Am
AE/GT/07.03.2017/3P/2C

WEB COPY

C.R.P (MD) No.250 of 2017 (PD)
07.02.2017