

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.975 of 2015
& M.P.No.1 of 2015

A.Palanivel

.. Petitioner

Vs.

1.Rajamani
2.S.Raju
3.Kandasamy Kounder
4.Soundarani

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 06.01.2015 made in I.A.No.620 of 2014 in O.S.No.27 of 2009 on the file of the Principal District Munsif, Rasipuram.

For Petitioner : Mr.M.Gnanamoorthi
for Mr.N.Suresh

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 06.01.2015 made in I.A.No.620 of 2014 in O.S.No.27 of 2009 on the file of the Principal District Munsif,

Rasipuram.

2.The petitioner is first defendant, first respondent is the plaintiff and respondents 2 to 4 are the defendants 2 to 4 in O.S.No.27 of 2009 on the file of the Principal District Munsif, Rasipuram. The first respondent filed the said suit against the petitioner and respondents 2 to 4 for partition and injunction. Earlier a preliminary decree was passed. When I.A for final decree was pending, preliminary decree was set aside. The petitioner and respondents 2 to 4 filed written statement on 30.08.2013 and are contesting the suit. The first respondent filed proof affidavit. The first respondent filed present I.A.No.620 of 2014 under Order VIII Rule 9 and Section 151 of C.P.C for permission to file the reply statement. According to the first respondent, the petitioner and respondents 2 to 4 have filed the written statement stating about the oral partition and other facts which are not true. In the circumstances, it is necessary for the first respondent to file reply statement. The written statement filed by the petitioner and respondents 2 to 4 was in English. Only now, the first respondent came to know the contents of the written statement and filed the present application seeking permission of the Court to file reply statement. The petitioner filed counter affidavit and denied all the

averments and submitted that the first respondent has not stated when she came to know about the contents of the written statement which was filed on 30.08.2013. Only with an intention to drag on the proceedings, the first respondent has come out with the present application. After commencement of trial, as per Order VI Rule 17 of C.P.C, the reply statement which amounts to amendment of the plaint cannot be entertained and prayed for dismissal of the application.

3.The learned Judge considering the averments in the affidavit, counter affidavit and all the materials on record allowed the application in the interest of justice in order to give an opportunity to the first respondent to put forth her case on merits.

4.Against the order dated 06.01.2015 made in I.A.No.620 of 2014 in O.S.No.27 of 2009, the present Civil Revision Petition is filed by the petitioner.

5.Heard the learned counsel for the petitioner. Though the Civil Revision Petition is filed in the year 2015, no notice was ordered to the respondents till date.

6.The learned counsel for the petitioner contended that after commencement of trial as per Order VI Rule 17 of C.P.C, no application for amendment can be entertained. As per Order VIII Rule 9 of C.P.C, no additional pleading after written statement can be filed except in case of counter claim or set off of defence of the defendants in the written statement. Both the contentions are not acceptable. As per Order VIII Rule 9 of C.P.C, the Court can permit a party to file additional pleadings on said terms as the Court thinks fit. The pleadings mentioned in the said rule includes reply statement also. In the facts and circumstances of each case, the Court has power to grant leave to the plaintiff to file reply statement and to the defendant to file additional written statement. The reply statement or additional reply statement will not amount to amendment of the plaint already filed by the plaintiff and Order VI Rule 17 of C.P.C is not attracted. In the present case, the first respondent has given reasons for not filing the reply statement earlier and the learned Judge accepting the same has granted leave to the first respondent to file reply statement in the interest of justice. There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 06.01.2015

made in I.A.No.620 of 2014 in O.S.No.27 of 2009.

7.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

23.01.2018

Index :: Yes/No

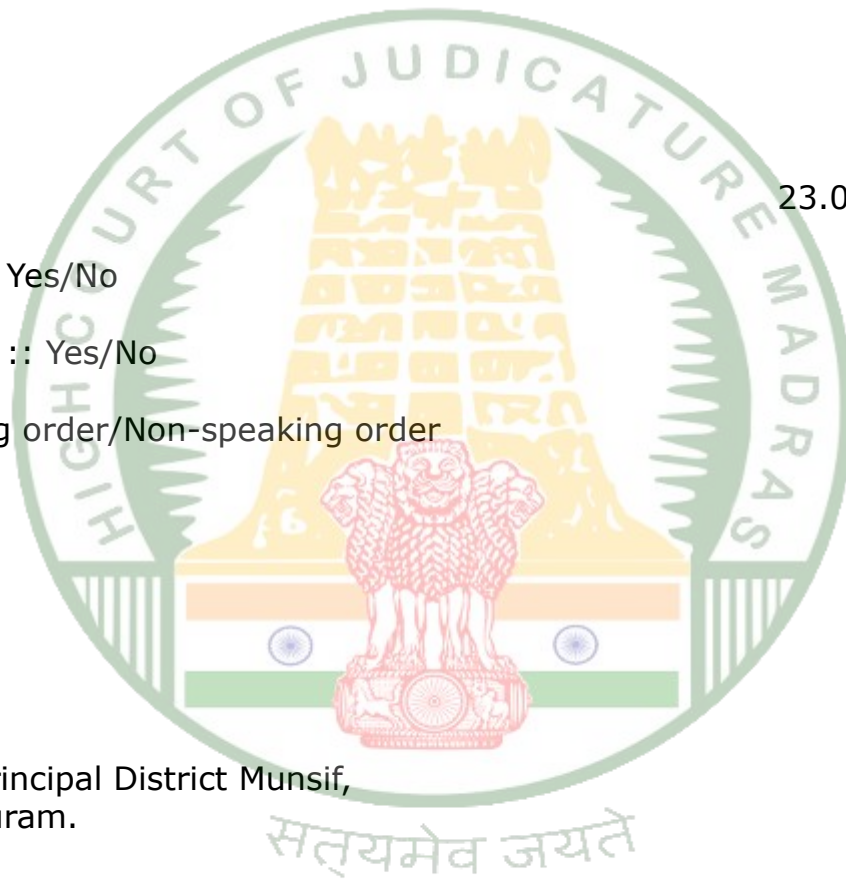
Internet :: Yes/No

Speaking order/Non-speaking order

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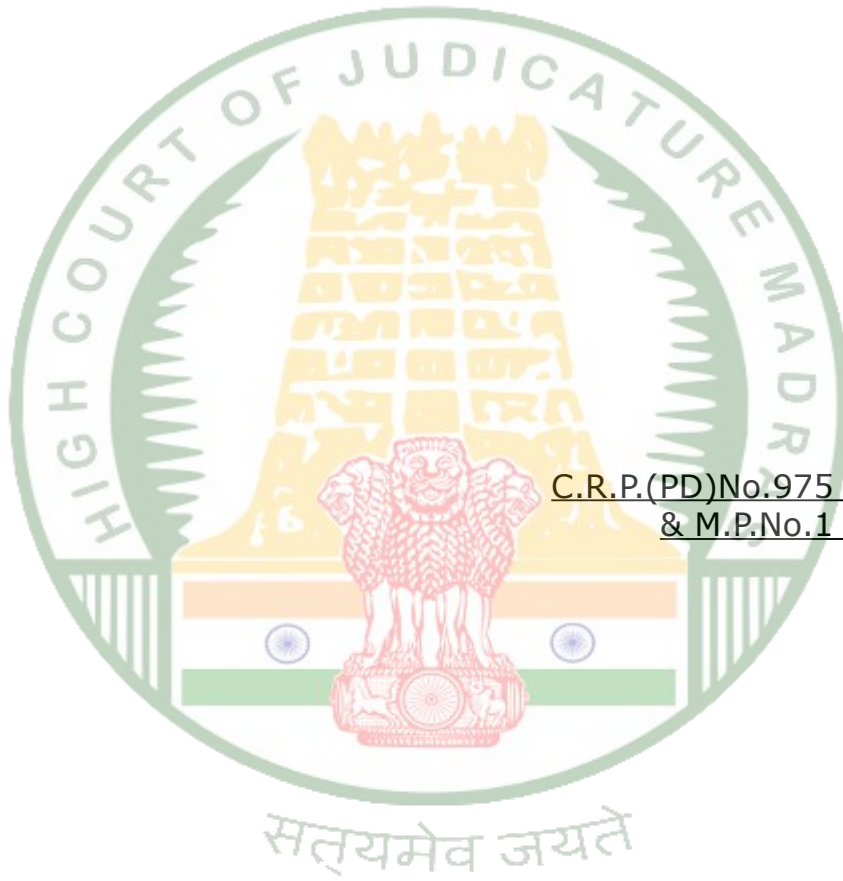
The Principal District Munsif,
Rasipuram.



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V.M.VELUMANI,J.

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