

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 29.01.2018

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.(PD) No.98 of 2018 and C.M.P.No.511 of 2018

M.Palanisamy

... Petitioner/Defendant

Vs.

1 M.Velliangiri

2 M.Balasubramaniam

... Respondents/Plaintiffs

This Civil Revision Petition is filed under section 227 of Constitution of India against the order dated 27.10.2017 made in I.A.No.853 of 2017 in O.S.No.161 of 2014 on the file of the II Additional District Judge, Tiruppur.

For Petitioner

: Mr.R.Bharathkumar

For Respondents

: Mr.C.R.Prasannan

सत्यमेव जयते

ORDER

WEB COPY

According to the petitioner, the respondent has filed a suit in O.S.No.161 of 2014. After hearing arguments of both sides, the suit was posted for judgment. At this stage, the petitioner has filed an application under Order VIII Rule 9 C.P.C. to receive additional written statement. The court

below erroneously dismissed the application. Therefore, the petitioner has filed the present Civil revision petition challenging the said order.

2 The learned counsel for the respondent would submit that the petitioner has filed the instant application at the belated stage i.e. arguments of both sides were concluded and the suit is posted for judgment. Therefore, there is no error or illegality in the order passed by the court below. Thus, the Civil revision petition is liable to be dismissed.

3 Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

4 This Court in **THANGAMMAL VS. SARASWATHI [2016 (6) CTC 763]** held as under:

"4. The petitioners after cross examining D1 to D3 filed an application to receive additional written statement. The petitioners by way of additional written statement wanted to take up a plea of non-joinder of necessary parties. The petitioners for the reasons best known to them failed to take up the plea of non-joinder at the earliest point of time. The learned Trial Judge very correctly held that the plea of non-joinder cannot be raised at the fag end of the trial. In fact, it

was only at the stage of arguments, the petitioners have filed the application. In case, the application is allowed, the Trial Court has to implead the parties and thereafter, the process should commence once again including recording evidence on behalf of the parties. The learned Trial Judge was perfectly correct in dismissing the application filed by the petitioners. I do not find any error or illegality in the said order warranting interference by exercising the revisional jurisdiction under Article 227 of the Constitution of India."

5 In the facts and circumstances of the case and in the light of the decision of this Court cited supra, there is no error or illegality in the order passed by the court below and therefore, this Court is not inclined to interfere with the order of the court below.

6 The Civil revision petition fails and the same is dismissed accordingly. No costs. Connected miscellaneous petition is closed.

WEB COPY

29.1.2018

D.KRISHNAKUMAR,J.

vaan

Speaking/Non Speaking order

Index: Yes/No

vaan

To

The II Additional District Judge, Tiruppur.



**C.R.P.(PD) No.98 of 2018 and
C.M.P.No.511 of 2018**

WEB COPY

Dated: 29.1.2018



WEB COPY