

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.01.2018

CORAM

THE HON'BLE MR.JUSTICE **D. KRISHNAKUMAR**

**C.R.P.(PD) No.2616 of 2016
and C.M.P.No.13446 of 2016**

1 C.Krishnan
2 Selvi

..Petitioners/Defendants 1 & 2

Vs.

N.Subramani

..Respondent/Plaintiff

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 10.06.2016 in I.A.No.89 of 2016 in O.S.No.83 of 2006 on the file of the Sub Court, Ranipet.

For Petitioner : Mr.R.Sankarasubbu
For Respondent : Mr.P.Mani

ORDER

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According to the petitioner, the respondent herein has filed a suit in O.S.No.83 of 2006 for specific performance against the petitioner before the Sub Court, Ranipet. The petitioner has filed written statement on 9.3.2007. The petitioner/defendant in para 6 of

the written statement has specifically denied the document, dated 1.3.2006 and according to the petitioner, aforesaid document is fabricated document and also made police complaint against the respondent/plaintiff. When the matter is taken up for trial, at the time of examination of plaintiff, the instant application has been filed to amend the written statement by stating that one Rajamanickam had given blank stamp paper duly signed, to one Mani for safe custody since the petitioner was not able to return the balance sale consideration, he returned the property of 50 cents back to Rajamanickam by way of registered sale deed. When he asked the signed blank paper, the petitioner was informed that the three signed blank papers were in the custody of Mani and as soon as he received the same from Mani, he will hand over the same to the petitioner in due course. However, the signed blank papers were handed over to the plaintiff and the same were misused and the documents have been fabricated for filing the suit. On the basis of the fabricated documents, the Court below dismissed the said application by holding that the said application for filing an additional written statement was filed belatedly i.e. after 10 years, that too at the time of commencement of trial. The trial Court after hearing both side, dismissed the application. Challenging the said order, the present Civil revision petition is filed before this Court.

2 According to the petitioner, there is no new plea has been raised in the additional written statement. The petitioner has already denied in the written statement that the document, dated 1.3.2006 has been fabricated and therefore, no prejudice would be caused to the respondent. Thus, the order passed by the Court below is liable to be set aside.

3 The learned counsel for the respondent submits that the petitioner also raised the denial of the document, dated 1.3.2006 in para 6 of the written statement. Therefore, filing of additional written statement is nothing but to protract or drag on the proceedings. The suit is of the year 2006, petitioner has filed the instant application belatedly after 10 years. Therefore, the Court below has rightly dismissed the application and hence, there is no warrant to interfere with the order passed by the Court below.

4 Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

5 It is a fact that the petitioner has denied the document, dated 1.3.2006 in para 6 of the written statement. The Court below

D.KRISHNAKUMAR.J,

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has considered the application in detail and observed that the said application has been filed belatedly after 10 years. Further, the Court below has held that new plea has been raised in the additional written statement. Therefore, the Court below has rightly dismissed the application and there is no warrant to interfere with the order passed by the Court below.

6 Accordingly, the Civil revision petition fails and the same is dismissed. However, it is open to the petitioner to agitate the defence raised in the written statement before the Court below by adducing oral and documentary evidence in the suit. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

17.01.2018

Speaking/Non Speaking order

Index: Yes/No

Internet: Yes/No

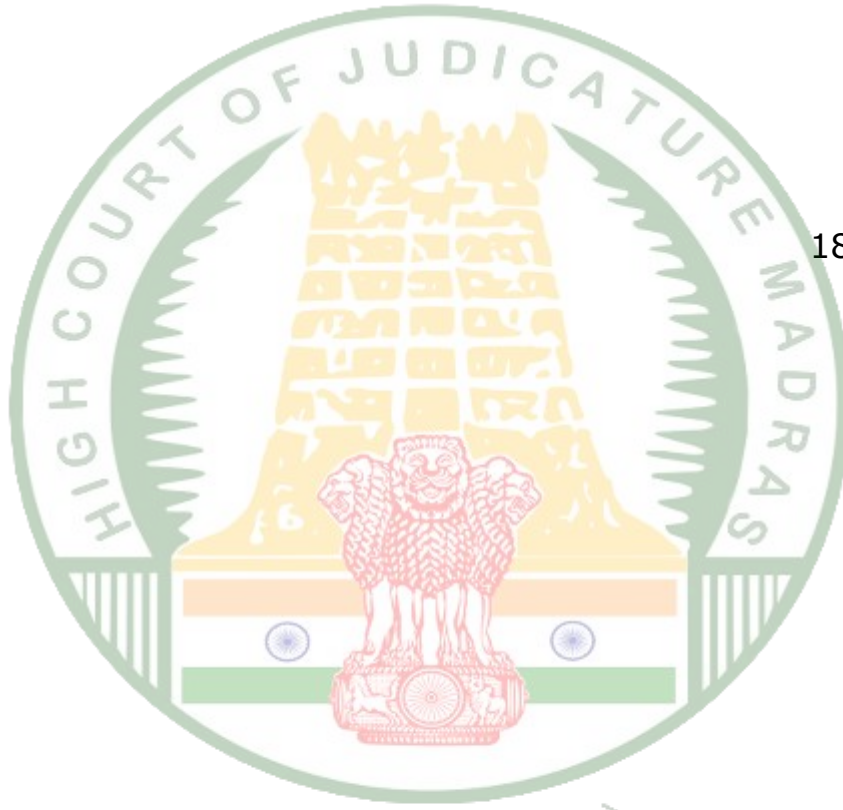
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To

The Sub Court, Ranipet

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