



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 04.06.2018

Pronounced on : 29.08.2018

WEB COPY

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (MD) Nos.141 & 142 of 2018 and

CMP (MD) No.592 of 2018

R.Jeyaraman ... Petitioner/Petitioner/Defendants
in both the CRPs

-vs-

Chelladurai ... Respondent/Respondent/Plaintiff
in both the CRPs

COMMON PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 04.01.2018 made in I.A.Nos.175 and 176 of 2017 in O.S.No.58 of 2012 respectively on the file of the District Munsif-cum-Judicial Magistrate Court, Bodinayakkanur.

(In both the CRPs)

For Petitioner : Mr.A.Arumugam
for M/s.Ajmal Associates
For Respondent : Mr.R.Suriyanarayanan

COMMON ORDER

The defendant is the petitioner before this Court challenging the order of dismissal in I.A.Nos.175 and 176 of 2017 dated 04.01.2018 on the file of the learned District Munsif-cum-Judicial Magistrate (Full Additional incharge) Bodinayakanur.

2.The case of the petitioner/defendant is that the respondent/plaintiff has filed a suit against the petitioner/defendant for permanent injunction restraining this petitioner who is the defendant in the suit from not to interfere with the suit. The petitioner also filed his written statement for the suit on 09.10.2012 itself and the suit is also taken up for hearing.

3.In this suit, evidence was taken and PW1 and PW2 were examined and the entire evidences were completed and the matter is



posted for arguments. At the relevant point of time, this petitioner has filed the present petition in I.A.No.175 of 2017 for re-open the case for the purpose of filing the additional written statement and filed another petition in I.A.No.176 of 2017 seeking permission to file an additional written statement.

WEB COPY

4.Both the petitions, the respondent/plaintiff also filed his counter by strongly denying the averments in I.A.Nos.175 and 176 of 2017 on the grounds that though the suit was filed in the year 2012. The petitioner/defendant also filed his written statement and the entire proceedings were completed, but all in sudden when the suit was posted for arguments, the petitioner, who is the defendant has filed the present petition for re-open the case for the purpose of filing an additional written statement.

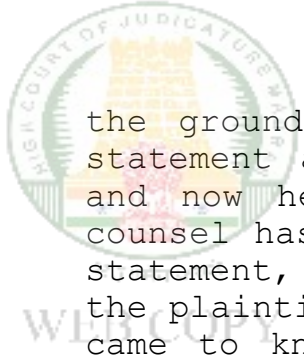
5.The respondent/plaintiff also states that once the written statement was filed and the evidence were completed and when the matter posted for arguments on either side on 21.03.2017, the petitioner was unnecessarily filed the petition for the aim to harassing the respondent, the petitioner by using the Court in illegal method and drag on the proceedings. Therefore, the respondent/ plaintiff sought for the dismissal of both the Interlocutory Applications.

6.Considering both sides case, the learned Additional District Munsif-cum-Judicial Magistrate (Full Additional incharge) Bodinayakkanur has dismissed the application on 04.01.2018, challenging both the applications, the present Civil Revision Petitions has been filed.

7.I Heard Mr.A.Arumugam, learned counsel for M/s.Ajmal Associates appearing for the petitioner and Mr.R.Suriyanarayanan, learned counsel for the respondent and perused the entire materials available on record.

8.Admittedly, the respondent/plaintiff has filed the suit in the year 2012 and the petitioner/defendant has filed his written statement on 01.12.2015, but after two years i.e., when the suit was posted for arguments on 21.03.2017, the petitioner/defendant has filed the application for re-open and only reason for filing the additional written statement that too under Section 151 of C.P.C.

9.The petitioner also states in his affidavit that for re-opening the case and for filing additional written statement only on



the ground that some of the vital point in the original written statement at the time of filing the written statement was omitted and now he wants to include the same. He also states that his counsel has not properly explained his case properly in the written statement, therefore, now only after gone through the evidence of the plaintiff as well as the defendant, the petitioner/defendant has come to know that unless the petitioner has filed the additional written statement by narrating the point which were left out in the original written statement, he could not succeed in the suit. Therefore, it made clear that except the above reason, there is no other reason for re-opening the case and seeking permission for filing the additional written statement.

10. Admittedly, in the suit the entire proceedings was over and when the matter was posted for arguments on 21.03.2017, the petitioner/defendant has unnecessarily filed this application which will clearly proved that only to drag on the proceedings, has filed the present application.

11. The learned counsel for the petitioner has produced two judgments as follows:

(i) S.Suresh v. Sivabalakannan and Others reported in (2007) 4 MLJ 1098.

(ii) E.O.Mohammed Ali v. Dessi Ammal alias Jessima Beevi and Others.

In both the judgments, the learned Judge of this Court stated that the leave to file additional written statement has to be granted liberally except when the defendant raises a mutually destructive pleas and when he tries to introduce altogether a new case by way of filing the additional written statement. But, this Court has considered that the said additional written statement ought to have adopted a liberal approach in granting leave to file additional written statement, which have not been mentioned in the written statement. But in the present case in hand, the learned counsel for the petitioner has not given any valid reason or what is relevant facts and what are the points he wants to file it by way of additional written statement has not been properly explained. Therefore, both the judgments are not applicable in the case on hand. Though I have considered the case for filing of additional written statement in number of judgments that the Court below must be adopt the liberal approach for filing the additional written statement that too if the said facts which is sought to be introduced by way of filing additional written statement should not be stated in the original written statement. Apart from this, the petitioner also approached the Court in time, but in this case, the entire evidence was over, but when the matter was posted on 21.03.2017 for arguments at the relevant point of time, this



petition has been filed which is not maintainable and cannot be accepted.

12.The learned Judge also very clearly mentioned in his order that the petitioner has not given any proper reason for filing the additional written statement that too after lapse of two years from the date of original written statement filed and the petitioner has filed this application only on the ground to drag the proceedings.

13.Therefore, the learned Judge has considered the petitioner's application in a proper manner and this Court has not required for any interference in the order passed by the learned Judge in I.A.Nos.175 and 176 of 2017 dated 04.01.2018 and hence the said order is liable to be confirmed.

14.In the result:

(a) both the Civil Revision Petitions are dismissed by confirming the order passed in I.A.Nos.175 and 176 of 2017, dated 04.01.2018, on the file of the learned District Munsif-cum-Judicial Magistrate (Full Additional incharge) Bodinayakkanur ;

(b) the learned District Munsif-cum-Judicial Magistrate (Full Additional incharge) Bodinayakkanur, is directed to dispose of the suit within a period of four weeks from the date of receipt of a copy of this order, without giving any adjournments to either parties. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The District Munsif-cum-Judicial Magistrate,
Bodinayakkanur.

VSV

TE/RSK/SAR-1 : 24/09/2018 : 4P/2C