



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2018

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (PD) (MD) Nos. 991 of 2014

and

M.P. (MD) No. 1 of 2014

A.H.Mohamed Ali

... Petitioner/Respondent/Plaintiff

Vs.

Samadharmaraj

...Respondent/Petitioner/Defendant

PRAYER: This petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed by the District Munsif Court at Srivaikuntam I.A.No.189 of 2014 in O.S.No.52 of 2012 dated 11.03.2014.

For Petitioner

:Mr.R.S.Prabhu

For Respondents

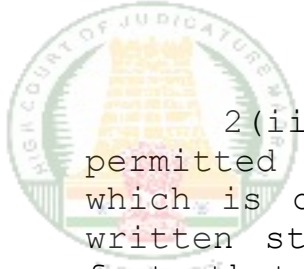
:Mr.R.T.Arivukumar

O R D E R

This Civil Revision Petition is directed against the order passed by the learned District Munsif, Srivaikuntam, in I.A.No.189 of 2014 in O.S.No.52 of 2012.

2.The brief facts that are necessary for the disposal of this Civil Revision Petitions are as follows:

2(i).The revision petitioner has filed the suit in O.S.No.52 of 2012, for declaration of title in respect of the suit properties. The respondent in the Civil Revision Petition, is the defendant, who filed a written statement in October, 2012. However, in January, 2015, the defendant filed an application in I.A.No.189 of 2013, to permit him to file additional written statement. In the additional written statement, the defendant has stated some facts which were not disclosed in the original written statement filed by him. The application for receiving the additional written statement was opposed by the plaintiff, mainly on the ground that the facts stated in the additional written statement is something new and hence it cannot be permitted.



2(ii).It is also stated that the defendant cannot be permitted to file an additional written statement raising a plea, which is destructive to the stand taken earlier in the original written statement. However, the lower Court has considered the fact that the defendant has only given further facts in the additional written statement, by which he is entitled to claim right to the suit property. In the said circumstances, the lower Court found that the plaintiff is also entitled to put forth his case as to how he claims title over the property.

3.The learned counsel appearing for the revision petitioner contended that the defendant cannot be permitted to raise a new plea. As found by the lower Court, the defendant has not raised a plea which is contrary or destructive to the case pleaded by him in the original written statement. In the original written statement, the defendant has defined each and every paragraph of the plaint. In the additional written statement, the defendant has stated something about the title.

4.In such circumstances, this Court is also of the view that the additional written statement is necessary in this case and that the respondent in the revision should be given an opportunity to contest the suit on merits. There is no legal infirmity or irregularity in the order passed by the lower Court in allowing, the respondent to file an additional written statement. It is to be noted that the lower Court has preserved liberty of the revision petitioner to contest the plea by way of leading evidence or to file a reply statement. Since, liberty was given to the revision petitioner to file a reply statement or to let in further evidence, to contradict the plea that is now raised by the defendant in the additional written statement, no prejudice is likely to be caused to the revision petitioner. Hence, this Court donot find any merit in this Civil Revision Petition.

5.Accordingly, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The District Munsif,
Srivaikuntam

2. The Record Keeper, (2 copies)

<https://hcservices.ecourts.gov.in/hcservices/>

Madurai Bench of Madras High Court,
Madurai.



+1cc to Mr.R.T.Arivukumar, Advocate Sr.No.76496

PNN

VB/SV/SAR2/07.09.2018/3P/5C

**ORDER MADE IN
C.R.P. (PD) (MD) Nos. 991 of 2014
and
M.P. (MD) No. 1 of 2014
01.08.2018**