



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 13.03.2018

PRONOUNCED ON : 09.10.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (NPD) (MD) .No.1836 of 2017

and

C.M.P. (MD) Nos.9714 and 10770 of 2017

T.M.Mohammed Meeran

.... Petitioner/
Petitioner/ Plaintiff

Vs .

- 1.The State of Tamil Nadu
rep. by the District Collector,
Karur.
- 2.The Executive Officer,
Pallapatti Town Panchayat, Aravakurichi
Taluk,
Karur District.
- 3.The AE /Junior Engineer, (O&M)
Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO), Urban,
Pallapatti - 639207.
- 4.The Tahsildar,
Aravakurichi Taluk,
Karur District,
- 5.The Sub Registrar,
Sub Register Office Street, Aravakurichi - 639201
- 6.Nagamuthu
- 7.Sahul Hameed
- 8.Nisar Ali
- 9.Mohammed Faruk
- 10.Sheik Dawood
- 11.Pavidha Begum
- 12.Baridha Begum
- 13.Mohammed Ali
- 14.Saburamal
- 15.Hamam
- 16.Mumtaaz Begum
- 17.Mohammed Sarfudeen



- 18.Nizaar Ali
- 19.Kamaludeed
- 20.Jafar Ali
- 21.Surfuneesa
- 22.Fathima Jinnah
- 23.K.Y.Ismail
- 24.S.S.A.Anwar Ali
- 25.Noorjahan
- 26.E.S.Ansar Ali
- 27.Mohammed Surfudeen
- 28.Mohammed Haneefa
- 29.Mohammed Ali
- 30.Mohammed sarfudeen
- 31.Sidek ali
- 32.Mumtaz Begum
- 33.Satya Murthy
- 34.T.M.Hameedha
- 35.Liaquath Ali
- 36.Sahul Hameed
- 37.Zubaidha Barzana
- 38.Basheera Kani Beevi
- 39.Habeeb Rahman
- 40.Azeex Rahman
- 41.Ubaidhu Rahman
- 42.Raheema Thai
- 43.Marayam Thai
- 44.Mumtaz Begum
- 45.Rabya Begum
- 46.Kalilul Rahman
- 47.Mohammed Ali.

... Respondents
Respondents/Defendants

(R1 to R5 were set ex-parte by the Court below. Hence, notice to R1 to R5 is not necessary)

(R7 to R47 are exonerated, as per the endorsement made by the learned counsel for the petitioner, dated 10.07.2017 and hence, notice to R7 to R47 is not necessary.

Prayer: Civil Revision Petition has been filed under Article 227 of the Constitution of India seeking a direction to the Principal District Judge, Karur to take on record and number the returned I.A.SR.No.53 of 2017 in O.S.No.30 of 2017 dated 17.06.2017 by the learned Principal District Judge, Karur and further dispose of the same within a time limit.

For Petitioner : Mr.T.M.Mohammed Hisham Arafat

For 6th respondent : Mr.K.Hariharan

**O R D E R**

This Civil Revision Petition has been filed by the plaintiff questioning the written endorsement, dated 17.06.2017, made in I.A.SR.No.53 of 2017 while returning the same.

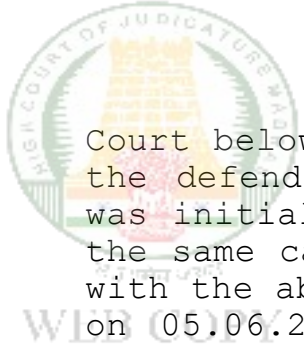
2. The brief facts of the case which are necessary for the disposal of this Civil Revision Petition are as follows:-

(a) According to the petitioner / plaintiff, the suit property was initially classified as agricultural land and subsequently the same was converted into plots. At the time of using the lands for agricultural purposes, a well was dug in the scheduled properties and during that time, the daily wage laborers, who were working in the farm, started to worship a stone for betterment of their livelihood in the disputed properties with permission from this petitioner, however, on condition that the stone by name "Santhanakaruppan" would be removed in case of necessity by this petitioner. On coming to know that the 6th respondent is attempting to put up permanent structure in the suit schedule property and to create revenue records, the petitioner had sent a legal notice to the respondents 1 to 4 on 10.03.2003 requesting them not to register any document and not to provide any electricity connection in the guise of Temple by name "Santhanakaruppan" or in the name of the 6th respondent. The 3rd respondent herein sent a reply stating that he has already provided electricity connection to the 6th respondent based upon a representation made by the 6th respondent and the villagers. Hence, the petitioner was constrained to file a suit.

(b) The petitioner originally filed a suit in O.S.No.362 of 2003 for declaration and recovery of possession. The 6th respondent herein contested the suit. After contest, the suit was dismissed. Aggrieved by that judgment, the petitioner preferred an appeal. The said appeal suit was allowed and the suit was remanded to the file of the trial Court for adding some more necessary parties and for marking additional documents. After remand, the petitioner has filed an I.A.No.1511 of 2016 seeking permission of the Court to withdraw the suit and to file a fresh suit without any change of cause of action and the same was ordered. Subsequently, the petitioner has filed the suit in O.S.T.No.6 of 2017. The petitioner has also filed I.A.Nos.28/17, I.A.No.29/17 and I.A.No.30/17 along with the suit for interim mandatory injunction, interim temporary injunction and for appointment of an Advocate Commissioner respectively. Thereafter, based on the petition filed by the petitioner in Tr.C.M.P.(MD). No.420 of 2017 before this Court, the suit was transferred from the file of the Mahila Court, Karur to the file of the Principal District Court, Karur and the suit was renumbered as O.S.T.No.30 of 2017.

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

(c) While so, the petitioner filed an application on 01.06.2017 Under VIII Rule 1 r/w Section 151 of CPC praying the



Court below not to take on record the written statement filed by the defendants beyond the period of 90 days. The said petition was initially numbered as I.A.SR.No.40 of 2017 on 01.06.2017 and the same came to be returned for deficit court fee. On complying with the above defects, the above I.A. was once again represented on 05.06.2017 by the petitioner and thereafter, the same was renumbered as I.A.SR.No.53 of 2017. However, on 17.06.2017 the same was again returned by the trial Court stating that the 6th respondent (6th defendant) filed the written statement in time. Question such endorsement, this Civil Revision Petition has been filed by the petitioner.

3. Though very many contentions raised by the learned counsel appearing for both sides with regard to the merits and demerits of the suit, this Court is not inclined to deal with the same considering the scope of this petition.

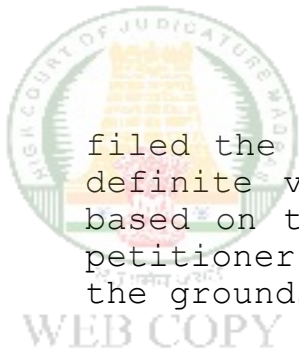
4. Heard the learned counsel appearing for both sides and perused the records carefully.

5. The main contention of the learned counsel appearing for the petitioner is that before taking into consideration of his application in I.A.SR.No.53 of 2017, which has been filed praying not to take on record the written statement to be filed by the defendants 1 to 6 after the prescribed period of 90 days, the trial Court has purposefully allowed the 6th respondent to file his counter after the said prescribed period and returned the application filed by the petitioner. The learned counsel appearing for the 6th respondent submitted that this Civil Revision Petition is not maintainable as the petitioner has filed this petition only against the endorsement returning the application and that instead of representing it by making his submissions before the trial Court, the petitioner has straightaway filed this civil revision petition.

6. The impugned order made by the trial Court while returning the interim application filed by the petitioner reads as follows:

"Written statement filed in time by D6.
Hence, this petition is returned."

According to the petitioner, the 6th respondent herein has filed the written statement only after 123 days. But, the trial Court has stated that the written statement is filed in time. The order passed by the trial Court is bereft of particulars. When the petitioner has specifically filed an application not to accept written statement, if any, filed by the defendants 1 to 6 beyond the period of 90 days, the trial Court has failed to mention the date on which the said written statement ought to have been filed and the date on which it was actually filed and as to how it was filed within time. When the trial Court has returned the application that the 6th defendant / 6th respondent herein has



filed the written statement in time, this Court cannot come to a definite view contrary to the order of the trial Court merely based on the submissions of the parties. On the other hand, the petitioner has also failed to represent the said petition stating the grounds raised herein before the trial Court.

7. In view of the above, this Court is inclined to pass the following orders:

The petitioner is directed to represent the said interlocutory application with the grounds raised herein within a period of two week from the date of receipt of a copy of this order. On such representation, the trial Court is directed to receive the application if it is represented within the time prescribed and pass reasoned order either rejecting or accepting the said application. The said exercise shall be completed by the trial Court within a period of eight weeks thereafter.

8. This Civil Revision Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS-I)

To

1.The Principal District Judge,
Karur.

2.The District Collector,
The State of Tamil Nadu
Karur.

3.The Executive Officer,
Pallapatti Town Panchayat, Aravakurichi
Taluk,Karur District.

4.The AE /Junior Engineer, (O&M)
Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO), Urban,
Pallapatti: 639207.

5.The Tahsildar,
Aravakurchi Taluk,
Karur District.



6. The Sub Registrar,
Sub Register Office Street,
Aravakurchi: 639201

WEB COPY

7. The Section Officer,
ER Section,
Madurai Bench of Madras High Court, Madurai.
(return the original document after
getting photos of copy of the same)

+1 CC To MR.T.SAKTHI KUMARAN, Advocate SR. NO. 89503

order made in
C.R.P. (NPD) (MD) No.1836 of 2017
09.10.2018

GCG

TR/PM/SAR-I (29.10.2018) 6P 9C