



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 24.07.2018
DELIVERED ON : 22.11.2018

CORAM

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THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (MD) (PD) No.2043 of 2017
and
CMP (MD) No.10182 of 2017

Kulandairaj .. Petitioner/Respondent/Plaintiff

vs

Shantha .. Respondent/Petitioner/2nd Defendant

Civil Revision Petition filed under Article 227 of Constitution of India against the order dated 21.09.2017 passed in I.A.No.512 of 2017 in O.S.No.338 of 2008 on the file of the learned I Additional Subordinate Judge, Tiruchirapalli.

For Petitioner : Mr.V.R.Shanmuganathan
For Respondent : Mr.C.Jeyaprakash

ORDER

This Civil Revision Petition has been filed calling in question the order dated 21.09.2017 passed in I.A.No.512 of 2017 in O.S.No.338 of 2008 on the file of the learned I Additional Sub Court, Tiruchirapalli.

2. The facts in a nutshell are as under: The petitioner herein filed O.S.No.338 of 2008 on the file of the learned I Additional Subordinate Judge, Tiruchirapalli, seeking declaration of title and possession of suit property. It is the case of the petitioner that the suit property is covered under Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 26 of 1963) and patta was granted by the Settlement Tahsildar vide proceedings dated 20.12.1969 in favour of the petitioner's mother, who subsequently executed a Will dated 01.02.1988 in favour of the petitioner. It is stated that pursuant to the death of the petitioner's mother on 26.04.1988, the petitioner became the owner of the suit property.

3. It is averred that the respondent is the sister of the petitioner and since she lost her husband and requested the petitioner to permit her to reside in the premises, the petitioner permitted the respondent to reside with him and after some period of time, the petitioner and his wife vacated the premises due to some difference of opinion with the respondent and the petitioner's wife



and permitted the respondent to reside in the suit premises. It is stated that the respondent inducted the first defendant into the suit property and permitted the second defendant to stay with her. Therefore, the petitioner requested the respondents to vacate the suit property.

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4. Aggrieved by the said act of the petitioner, the respondent filed suit, being O.S.No.18 of 2008, for permanent injunction. Under such circumstances, it is stated that the petitioner herein was forced to file the suit in question, being O.S.No.338 of 2008. It is stated that in the present suit, the first defendant filed written statement on 07.01.2010 and the respondent (second defendant) made statement to the effect that she is adopting the written statement filed by the first defendant. Thereafter, P.W1 was examined in chief and cross-examination of P.W.1 was in half way. It is stated that at this stage, with a view to fill up the lacuna, the respondent filed an application to file additional written statement. It is stated that the Court below, without considering the objections filed by the petitioner, by order dated 21.09.2017, allowed the application.

5. Impugning the said order, the petitioner has filed this civil revision petition.

6. I heard Mr.V.R.Shanmuganathan, learned counsel for the petitioner and Mr.C.Jeyaprakash, learned counsel for the respondent and perused the entire materials available on record.

7. It is the contention of the learned counsel appearing on behalf of the petitioner that taking advantage of the order passed by the Court below, the respondent is trying to introduce a new case by way of additional written statement and the same would seriously affect the case of the petitioner, more so when the evidence on the side of the petitioner has nearly completed and the suit is in part heard stage.

8. Per contra, the learned counsel appearing on behalf of the respondent reiterated the reasons that weighed with the Court below in allowing her application and prayed for dismissal of this revision petition.

9. The Courts have time and again held that the defendants can raise additional pleas by way of filing additional written statement during pendency of the suit in order to explain or ascertain or reiterate the original pleas. Therefore, the point that has to be seen is as to whether the pleas raised in the additional written statement are inconsistent with the pleas already raised in the original written statement and whether a new case is being made by the respondent than the one already pleaded. This proposition has to be analyzed on case on case basis, based on facts and circumstances of each case and, therefore, this Court does not intend to traverse into the various decisions cited.



10. The Court below after considering the additional written statement held that no new plea has been made by the respondent and that only the plea taken earlier was fortified by the respondent by way of additional written statement giving certain particulars. By allowing the filing of the additional written statement, the Court is not going to pass a decree based on the additional written statement. It all depends upon the evidence to be adduced by either side.

11. The object of filing of additional written statement is to supply what might have been omitted in the written statement filed earlier and the additional written statement can be allowed, if it is not likely to cause prejudice to the plaintiff. The Court should grant permission to the defendant for filing subsequent pleadings if they are so relevant to prove the facts placed before the Court by the defendant, which cause no prejudice to the plaintiff even in the absence of any claim or set off or counter claim. In the case on hand, the Court below held that the respondent had not made out any new case by way of the additional written statement and that no prejudice would be caused to the plaintiff. Even before this Court nothing has been placed by the petitioner to show the prejudice caused by accepting of the additional written statement.

12. For the foregoing reasons, this revision is dismissed and the order dated 21.9.2017 passed in I.A.No.512 of 2017 in O.S.No.338 of 2008 on the file of the learned I Additional Sub Court, Tiruchirapalli, is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(cs-II)

/True Copy/

Sub Assistant Registrar(cs-III)

To
The I Additional Sub Court
Tiruchirapalli.

+1cc to Mr.C.Jeyaprakash Advocate in SR.No.96522

order made in
C.R.P. (MD) (PD) No.2043 of 2017
and
CMP(MD) No.10182 of 2017
22.11.2018