



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2018

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THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.R.P (MD) No.1330 of 2018

and

C.M.P. (MD) No.5665 of 2018

M.Rajasakthivel ... Petitioner/Petitioner/3rd Defendant

Vs.

Sonai, S/o.Late Periyakaruppan @ Sukkuni ... Respondent/Respondent
Plaintiff

Prayer:- This Civil Revision Petition is filed under Article 227 of the Constitution of India, seeking to call for the records relating to the fair and decreetal order dated 08.03.2018, made in I.A.No.118 of 2018 in O.S.No.362 of 2007 on the file of the District Munsif Court, Madurai Taluk, Madurai, and set aside the same.

For Petitioner : Mr.B.A.Muruganantham

ORDER

The Civil Revision Petition has been filed seeking to set aside the fair and decreetal order dated 08.03.2018, made in I.A.No.118 of 2018 in O.S.No.362 of 2007, on the file of the District Munsif Court, Madurai Taluk, Madurai.

2.The revision petitioner is the third defendant and the respondent is the plaintiff in the suit in O.S.No.362 of 2007 on the file of the District Munsif Court, Madurai Taluk, Madurai. The respondent has filed the said suit for declaration and permanent injunction. In the said suit, the revision petitioner has filed an Interlocutory Application in I.A.No.118 of 2018 under Section 151 of C.P.C., seeking to permit him to file an additional written statement. The learned District Munsif, Madurai Taluk, Madurai, by order dated 08.03.2018, dismissed the said application. Challenging the said order, the petitioner has come out with the present Civil Revision Petition.

3.Heard the learned counsel for the petitioner and perused the affidavit filed in I.A.No.118 of 2018 and also the order passed therein.



4.A bare reading of the affidavit filed by the petitioner in I.A.No.118 of 2018, shows that he has not averred anything in respect of what is the omission and what he wants to include. He has also not stated what is the purpose to file the application seeking permission to file additional written statement.

5.At this juncture, it is relevant to extract Paragraph No.2 of the affidavit filed by the revision petitioner in I.A.No.118 of 2018.

'2.I have a valid defense in this case as I am a bonafide purchaser of the suit property. I was given chance to file an additional statement for the amended plaint filed by the plaintiff. But since the bundle was misplaced we were unable to file the additional statement at that time and this Hon'ble Court was also pleased to close our chance to file the additional statement. But unless the additional statement is allowed to be filed by me I cannot effectively defend my case and I may suffer loss and injury. Further, it may defeat my bonafide purchase of the suit property.'

6.Therefore, it is clear that the petitioner has not stated anything in respect of the averments to be included in the additional written statement.

7.The learned counsel appearing for the petitioner submitted that liberty may be given to file a fresh application by mentioning the averments to be included in the additional written statement and the Court below may be directed to consider the same.

8.In view of the above, this Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed. The petitioner is at liberty to file an application seeking permission to file additional written statement before the District Munsif Court, Madurai Taluk, Madurai, within a period of two weeks from the date of receipt of a copy of this order. The learned District Munsif, Madurai Taluk, Madurai, is directed to consider the same after giving notice to both the parties and pass appropriate orders on merits and in accordance with law, within a period of four weeks thereafter and dispose of the suit on merits and in accordance with law, within a period of three months thereafter.

Sd/-

Assistant Registrar(AS)

/True Copy/



To

The District Munsif,
Madurai Taluk,
Madurai.

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+1cc to Mr.B.A.Muruganantham, Advocate Sr.No.71020

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VB/SKN/RSK/SAR3/18.07.2018/3P/3C

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