



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) (PD) No.1678 of 2016

and

C.M.P. (MD) No.8181 of 2016

Sarabraj Kadhir

...Petitioner/Petitioner/
1st Defendant

/Vs./

1.M.S.M.S.K.Kaiser Shahul Hameed

... 1st Respondent / 1st
Respondent / Plaintiff

2.S.Mohammed Kattubava

3.Ambalavanan

4.K.M.Syed Sulaiman

5.Abdul Basith

6.Ameenal Beevi

...Respondents 2 to 6 / Respondents 2 to 6 /
Defendants 2 to 6

Prayer: Civil Revision Petition - filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 03.08.2016 passed in I.A.No.396 of 2016 in O.S.No.163 of 2004 on the file of the Additional District Munsif Court, Tenkasi and allow the present Civil Revision Petition.

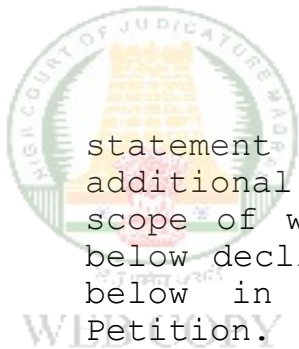
For Petitioner : Mr.R.J.Karthick

For R-1 : Mr.J.Thomas Raja Durai

For R-2 to R-6 : Given up vide EB

ORDER

The petitioner is the first defendant in the suit in O.S.No.163 of 2004 on the file of the Additional District Munsif, Tenkasi. The said suit appears to have been instituted in the year 2001 itself. The suit was originally filed through the power agent of the plaintiff. During the pendency of the suit, the power agent passed away. Therefore, the plaintiff sought to amend the cause title of the suit to prosecute the suit himself. An application for amendment was filed and the same was allowed. This was only a formal amendment. It did not even call for or require response from the defendants. But, then the Court below gave liberty to the defendants to file an additional written statement. The defendants did not file the said additional written statement within the time



statement with an application of condoning the delay. The additional written statement contained matters that were beyond scope of what was permitted to be amended. Therefore, the Court below declined to receive the same. The order passed by the Court below in this regard is challenged in this Civil Revision Petition.

2. The learned counsel appearing for the petitioner reiterated the grounds set out in the memorandum.

3. As rightly contended by the learned counsel appearing for the plaintiff when a plaint is allowed to be amended, after filing a written statement by the defendants, additional pleadings to be filed by the defendants should be confined to the fresh matter introduced to the amendment. In the present case, the matter allowed to be amended was only the cause title. It was necessitated by the death of the plaintiff / power agent. Therefore, in this case, there was no need to have called upon the defendant to file an additional written statement. Probably the cause title in the written statement alone needed an amendment. Nothing more is required. The Court below was justified in passing the impugned order. There is no merit in the civil revision petition. Accordingly, the civil revision petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS-I)

To

1.The Additional District Munsif, Tenkasi

+1 CC To MR.J.THOMAS RAJA DURAI, Advocate SR. NO.79326

+1 CC To MR.R.J.KARTHICK, Advocate SR. NO.79377

Order made in
C.R.P. (MD) (PD) No.1678 of 2016
20.08.2018

SM

TR/SV/SAR-I (01.10.2018) 2P 4C