

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**C.R.P(PD) No.3099 of 2015
and M.P.No.1 of 2015**

Mohammedi Delhi wala

.. Petitioner

VS

1.Shekh Kutbuddin Habib
2.Adnan Kutbuddin Habib

.. Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the impugned order dated 27.04.2015 passed in I.A.No.737 of 2014 in O.S.No.473 of 2013 on the file of the V Additional District and Sessions Court, Coimbatore.

For Petitioner : Mr.R.Dasaratha Rao

ORDER

This civil revision petition is filed to set aside the impugned fair and decretal order dated 27.04.2015 on the file of the V Additional District and Sessions Court, Coimbatore in I.A.No.737 of 2014 in O.S.No.473 of 2013 .

2. The revision petitioner is the plaintiff. He filed the suit for the relief of specific performance of the sale agreement dated 22.11.2008 and for

permanent injunction against the respondents. Thereafter, the petitioner had filed I.A.No.737 of 2014 to permit the petitioner to file additional reply statement to the written statement filed by the respondents and that application was dismissed on the ground that the writtten statement filed on 19.02.2014 and the application was filed only on 09.09.2014 after lapse of eight months.

3. Further, the court below dismissed the said application with the observation that the intention of the petitioner to drag on the proceedings and hence the application was not maintainable. Perusal of the records would show that the trial had not commenced.

4. In this connection, the learned counsel for the petitioner has relied upon the decision of this Court reported in ***Indo International Ltd., rep.by its Managing Director, Chennai-1 and another vs. Continental Carriers Private Ltd., rep.by its Regional Manager, M.V.Bhat, Chennai 28, 2004*** (3) CTC 353, wherein it was held as follows:

“ 22. Under Order 8, Rule 9, C.P.C, it is always open to the Court to exercise its discretion to allow the defendants to file any additional written statement. This proposition could be imported to the filing of the reply statement also. Whenever a new plea is introduced by the defendant in the written statement,

contingency of filing the rejoinder arises clarifying their position. Courts are vested with discretion to allow the plaintiff to file the reply statement explaining the position which is not inconsistent with the earlier plea adopted by the plaintiff.

24. The Rule invests with the Court a wide discretion to allow the plaintiff to file the reply statement. Since the plea of limitation was adopted by the defendant in the written statement, certainly it is open to the plaintiff to explain the same. The learned trial Judge has rightly exercised the discretion in allowing the plaintiff to file the reply statement explaining the same. Certainly filing of reply statement does not amount to introducing new cause of action.”

5. The above observations apply to four corners of the case. Therefore, I am inclined to allow the civil revision petition. Considering the fact that the suit is of the year 2003 and almost six years lapsed in view of the pendency of the civil revision petition, it is ordered as follows:

i) The impugned order passed in I.A.No.737 of 2014 in O.S.No.473 of 2013 on the file of the V Additional District and Sessions Court, Coimbatore is hereby set aside;

ii) the V Additional District and Sessions Judge, Coimbatore is directed to accept the reply statement of the petitioner;

C.SARAVANAN,J.

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iii) the V Additional District and Sessions Judge, Coimbatore is also directed to dispose the suit in O.S.No.473 of 2013 within a period of six months from the date of receipt of a copy of this order.

6. The civil revision petition is allowed with the above direction. No cost. Consequently, connected miscellaneous petition is closed.

18.03.2019

Speaking : Non-speaking order

Index : Yes/No

Internet : Yes/No

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Note : Issue Order copy on 21.03.2019

To

V Additional District and Sessions Court,
Coimbatore.

C.R.P(PD) No.3099 of 2015
and M.P.No.1 of 2015