

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P. (PD)No.3188 of 2013

and M.P.No.1 of 2013

Sabapathi .. Petitioner/Petitioner/Defendant

Vs.

Palaniappan .. Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 15.04.2013 made in I.A.No.450 of 2013 in O.S.No.69 of 2010 on the file of the Principal District Munsif, Namakkal.

For Petitioner : Mr. I. Abror Mohamed Abdullah

For Respondents : Mr.T. Dhanyakumar

ORDER

This Revision Petition has been filed against the order passed in I.A.No.450 of 2013 in O.S.No.69 of 2010 on the file of the Principal District Munsif, Namakkal dismissing the application to file additional documents to place certain facts regarding the Settlement Deed and registered Will executed in favour of the Revision Petitioner. It is the contention of the Revision Petitioner that at the time of filing written

statement his father was looking after the case. Only after his demise he came to know about the settlement and Will executed much prior to the suit. Therefore, it has become necessary for him to file additional written statement to prove his case by those documents.

2. The respondent opposed the application on the ground that they were aware of the Settlement and Will much prior to filing of the Written Statement. However, they have not pleaded those documents in the previous written statement. The trial Court dismissed the application as against which the Revision has been filed.

3. I have perused the order. The trial Court has dismissed the application mainly on the ground that there is no proper reasons for filing Additional Written Statement. The application has been filed only to file Additional Written Statement in order to prove certain facts with regard to the Settlement and registered Will executed in favour of the Revision Petitioner. The suit itself is filed for partition of the properties. When certain omissions have taken place in the earlier Written Statement, the parties cannot be deprived of setting right the same by filing Additional Written Statement. Admittedly, the Revision Petitioner wants to file Additional Written Statement only to place

certain facts with regard to the above documents. When the party pleads that there are valid documents in their favour those documents cannot be denied from being exhibited in /is between the parties. Substantial right of the parties mainly depends upon the documents executed in their favour. Therefore, this Court is of the view that merely some details have not been given in the application as to why they have not pleaded earlier about those documents, the same cannot be a ground to deprive the right of the party to file the valid documents executed in their favour. Hence, I am of the view the trial court dismissed the application is certainly curtailed the right of the applicant. Hence, the order of the trial Court is required to be interfered. Accordingly, the order of the trial Court is set aside.

4. In the result, the Civil Revision Petition is allowed. The trial Court is directed to take the Additional Written Statement along with the Application and frame additional issues arises and dispose of the suit within six months from the date of receipt of copy of this Order. Connected M.P.is closed. No costs.

11.02.2019

Index : Yes/No
Internet: yes/No
Speaking/Non-speaking Order
ggs

N.SATHISH KUMAR, J.

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CRP.(PD) No.3188 of 2013

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