

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved On : 24.07.2018

Orders Pronounced On : 14.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
CRP.No.1855 of 2018
and
C.M.P.No.10664 of 2018

1.Umadevi
2.Som Sankar ... Petitioners / Respondent

Vs
M.Udaya Sankar ... Respondent/ Petitioner

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order I.A.No.11978 of 2017 in O.S.No.3010 of 2016 dated 01.02.2018 passed by the learned II Assistant Judge, (FAC), I Assistant City Civil Court, Chennai.

For Petitioner : Mr.K.Marimuthu
For Respondent : Mr.A.S.Narasiman
for Mr.I.Murugan

O R D E R

The revision petitioners are the respondents in I.A.No.11978 of 2017 and the Plaintiffs in O.S.No.3010 of 2016 on the file of the City Civil Court at Chennai. The respondent is the defendant in the above said O.S.No.3010 of 2016. The respondent is the applicant in I.A.No.11978 of 2017 and defendant in O.S.No.3010 of 2016. The petitioners herein filed the suit against the respondent in O.S.No.3010 of 2016 on the file of the City Civil Court at Chennai, for declaration and injunction. After service of summons, the respondent filed written statement and also filed counter claim. The revision petitioners/Plaintiffs have filed the reply to the counter claim filed by the respondent. After filing the reply statement, the respondent herein filed the application in I.A.No.11978 of 2017 in O.S.No.3010 of 2016 under Order VI Rule 16 of CPC, seeking to strike out the pleadings from the reply statement filed by the revision petitioners/Plaintiffs against the counter claim of the

respondent/defendant in O.S.No.3010 of 2016 in Page No.4 Para 14 Points Nos.2, 3, 4, 6, 7, starting from Page No.5 Para No.18 Point No.3, 4, 7, 9, 12, 15, 18, 19, 20, 22, 24, 25, 26, 28, 30, 32, 34, 35, starting from Page No.10 Para 19 Point No.11, 14, 15, 16, 17, Page No.17 Para 44, 45 Page No.20 Para 54, Page No.22 Para 59, Page No.22 before the trial Court. The trial Court, after giving an opportunity of hearing to both the parties, allowed the petition filed by the respondent herein and ordered to strike out the pleadings from the reply statement filed by the Plaintiff in the above said Page No.4 Para 14 Points Nos.2, 3, 4, 6, 7, starting from Page No.5 Para No.18 Point No.3, 4, 7, 9, 12, 15, 18, 19, 20, 22, 24, 25, 26, 28, 30, 32, 34, 35, starting from Page No.10 Para 19 Point No.11, 14, 15, 16, 17, Page No.17 Para 44, 45 Page No.20 Para 54, Page No.22 Para 59, Page No.22.

2 Challenging the said order passed by the Trial Court the respondents/Plaintiffs therein have filed the present revision petition before this Court.

3 The learned counsel for the petitioners would submit that the respondent has stated the reasons for deletion of some paragraphs in the reply filed by the petitioners/plaintiffs against the Counter claim filed by the respondent/defendant. The plaintiffs have narrated the facts and gave a reply to the counter claim filed by the respondent/defendant. In the civil proceedings, the pleadings are absolutely necessary to decide the suit and without pleadings, the evidence may not be let in. Therefore, it is necessary that the facts have to be pleaded. The trial Court failed to consider the basic principles and allowed the petition filed by the respondent/defendant and ordered to strike off some of the portions in the reply statement to the counter claim. The trial Court has not assigned any reason to strike off the pleadings, which warrants interference by this Court.

4 The learned counsel for the respondent would submit that the petitioners filed the suit for declaration against the respondent, for which the respondent filed the written statement as per the Civil Procedure Code. To the counter claim, the petitioners filed their reply and in the said reply statement, the petitioners made allegations against the counsel who appeared on behalf of the respondent/defendant. The plaintiffs have no right to level the allegations against the counsel who had appeared for the opposite party in the pleadings. The allegations levelled by the petitioners/plaintiffs in the reply statement to the counter claim is nothing but Scandalous,

Frivolous, Vexatious. The petitioners have no right to accuse the counsel who filed Vakalat for the respondent/defendant. Therefore, the defendant invoked Order VI Rule 16 of C.P.C. The trial Court, after going through the entire pleadings, rightly allowed the petition and ordered to strike off the relevant portions in the pleadings. Therefore, the learned counsel for the respondent submitted that there is no need to interfere with the order passed by the trial Court.

5 Heard the learned counsel for the petitioners as well the respondent and perused the materials available on record.

6 Admittedly, the petitioners filed the suit against the respondent in O.S.No.3010 of 2016 before the City Civil Court at Chennai for declaration and injunction and in the said suit, the respondent/defendant entered appearance through counsel and filed his written statement and also filed the counter claim. The revision petitioners filed reply to the above said counter claim in which they made some allegations against the counsel who appeared for the respondent/defendant. Therefore, the respondent/defendant filed an application in I.A.No.11978 of 2017 under Order VI Rule 16 of C.P.C., seeking to strike out the pleadings from the reply statement filed by the plaintiffs against the counter claim of the defendant in the above said suit in Page No.4 Para 14 Points Nos.2, 3, 4, 6, 7, starting from Page No.5 Para No.18 Point No.3, 4, 7, 9, 12, 15, 18, 19, 20, 22, 24, 25, 26, 28, 30, 32, 34, 35, starting from Page No.10 Para 19 Point No.11, 14, 15, 16, 17, Page No.17 Para 44, 45 Page No.20 Para 54, Page No.22 Para 59, Page No.22.

7 Though the learned counsel for the respondent contended that those portions are nothing but scandalous, frivolous and vexatious averments, which further are embarrassing the Courts to proceed with the case, the petitioners / plaintiffs have no right to accuse the counsel for the respondent/defendant.

8 On a reading of the counter claim filed by the respondent/defendant and the reply statement filed by the petitioners/plaintiffs to the said counter claim, admittedly, the petitioners have made some personal allegations against the counsel who are on record for the respondent/defendant. No doubt in Civil proceedings, there must be a specific denial. Unless there are pleadings, the evidence cannot be let in. Even if the evidence is let in the Court need not look into the same. But at the same

time, if the pleadings are scandalous, frivolous or vexatious or which may tend to prejudice, embarrass or delay the fair trial of the suit or which is otherwise an abuse of process of the Court, the Court can strike out those pleadings. So, in this case, on a reading of the reply statement filed by the revision petitioners/plaintiffs, it is seen that the portions mentioned in the reply in Page No.4 Para 14 Points Nos.2, 3, 4, 6, 7, starting from Page No.5 Para No.18 Point No.3, 4, 7, 9, 12, 15, 18, 19, 20, 22, 24, 25, 26, 28, 30, 32, 34, 35, starting from Page No.10 Para 19 Point No.11, 14, 15, 16, 17, Page No.17 Para 44, 45 Page No.20 Para 54, Page No.22 Para 59, Page No.22 are contained personal allegations against the counsel who has appeared for the respondent/defendent before the trial Court hence, the above mentioned portion in the reply statement filed by the petitioners/plaintiffs are liable to be struck off.

9 Therefore, the trial Court allowed the application and ordered to strike out those portions mentioning in Page No.4 Para 14 Points Nos.2, 3, 4, 6, 7, starting from Page No.5 Para No.18 Point No.3, 4, 7, 9, 12, 15, 18, 19, 20, 22, 24, 25, 26, 28, 30, 32, 34, 35, starting from Page No.10 Para 19 Point No.11, 14, 15, 16, 17, Page No.17 Para 44, 45 Page No.20 Para 54, Page No.22 Para 59, Page No.22. The parties are entitled to deny the allegations made in the averments of the pleadings, but they cannot make any accusations against the counsel on record.

10 Therefore, under those circumstances, this Court does not find any perversity in the impugned order passed by the trial Court. There is no merit in the revision, which is liable to be dismissed.

11 Accordingly, this present Civil Revision Petition is dismissed. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sbn

To
The II Assistant Judge,
(FAC) I Assistant City Civil Court,
Chennai.

Copy to
The Section Officer,
VR Section,
High Court, Madras

+lcc to Mr.K.Marimuthu , Advocate SR.No. 48314

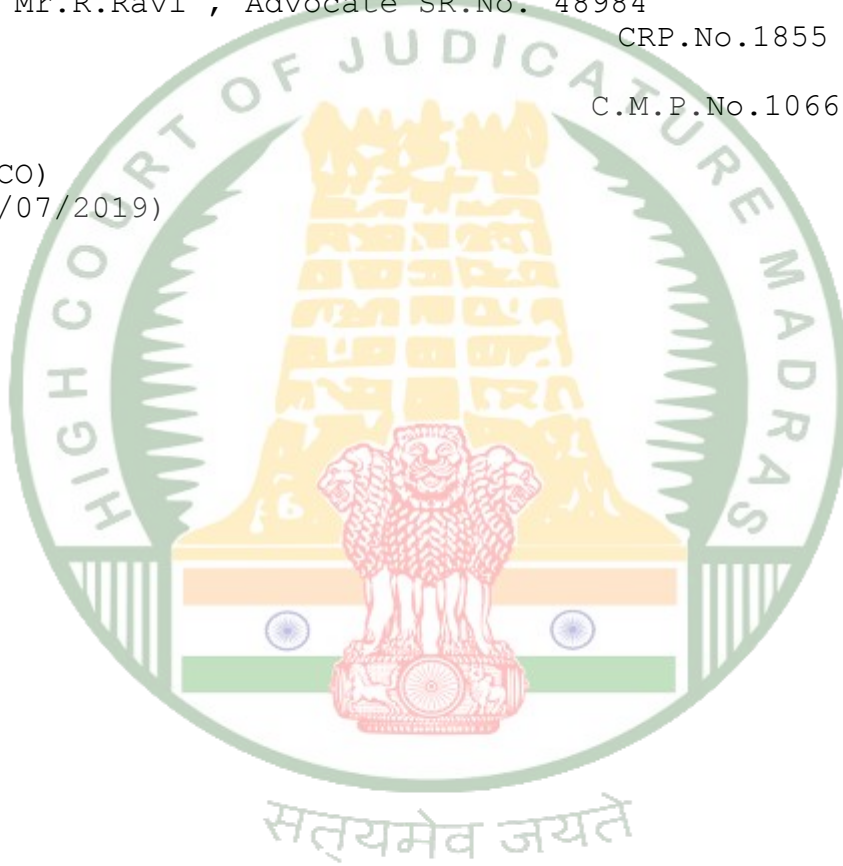
+lcc to Mr.R.Ravi , Advocate SR.No. 48984

CRP.No.1855 of 2018

and

C.M.P.No.10664 of 2018

ssv (CO)
A.SK(22/07/2019)



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