

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2019

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THE HONOURABLE **MR. JUSTICE C. SARAVANAN**

C.R.P. (NPD).Nos.1772 & 1773 of 2014

and

M.P. Nos.1, 1 of 2014

R.Kumarasamy ... Petitioner in both CRPs

Vs.

1.A.Subramaniam

2.P.Manikandan ... Respondents in both CRPs

3.K.Suresh

4.Thilagavathi

5.Saraswathi

6.Thulasimani

7.Thangammal ... Respondents in
C.R.P.No.1773 of 2014

Prayer in C.R.P.No.1772 of 2014 : Civil Revision petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and final order passed in I.A.No.22 of 2014 in O.S.No.664 of 2008 on the file of the II

Additional District Munsif at Erode dated 26.02.2014.

Prayer in C.R.P.No.1773 of 2014 : Civil Revision petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and final order passed in I.A.No.24 of 2014 in O.S.No.664 of 2008 on the file of the II Additional District Munsif at Erode dated 26.02.2014.

For Petitioner : Mr.V.Balamurugane in both C.R.Ps

For Respondents : Mr.I.C.Vasudevan in both C.R.Ps

COMMON ORDER

The petitioner/defendant has filed the present Civil Revision Petitions against the orders in I.A.Nos.22 of 2014 & 24 of 2014 in O.S.No.664 of 2008 dated 26.02.2014 on the file of the II Additional District Munsif Court, Erode.

2. The said interlocutory application in I.A.No.22 of 2014 was filed by the respondents 1 and 2/plaintiffs, under Order 8 Rule 9 and Section 151 of C.P.C., to permit the respondents 1 and 2/plaintiffs to file the additional reply statement in the aforesaid suit and I.A.No.24 of 2014 under Order 1 Rule (3) and Section 151 of C.P.C., to implead the proposed parties as defendants 2 to 6. (respondents 3 to 7).

3. The petitioner is the defendant in O.S.No.664 of 2008 before the II Additional District Munsif, Erode. The petitioner had filed his written statement as early as 04.06.2009. Thereafter, it appears that the respondents had filed interlocutory application for impleadment which was allowed in I.A.No.24 of 2014. The respondents had filed an application for filing reply to the written statement filed by the revision petitioner/defendant in the suit which was allowed with costs in I.A.No.22 of 2014. Consequently the prayer was allowed.

4. The Court below after perusing the records has observed as follows:

On perusal of the suit notes paper it is found that the original suit was posted in the list on 03.12.2013. On that date this petitioner filed the petition for adjournment and the same was allowed and posted the case to 07.12.2013. On that date this petition is filed for reply of the written statement. Originally the respondent filed the written statement on 15.06.2009 itself. Already this matter was listed on 08.04.2011. But the same was removed noting that civil revision petition is pending. After a long time, this matter was again listed, but it was delisted

as usual. The petitioner one or another reason had dragged on the proceeding by way of filing petition after petition. Any how as far as this petition is concerned it is filed pre-trial stage, only to answer the averments stated in the written statement.

The Court has allowed these two applications by the impugned fair and decretal orders subject to payment of costs of Rs.1,000/-.

5. Aggrieved by the same, the petitioner who is the defendant in the above suit has now filed the present civil revision petition. Though notice was ordered and no stay was granted, in view of the pendency of the present civil revision petition, the suit has not been taken up for hearing.

6. The learned counsel for the petitioner/defendant submits that the parties had filed the above two interlocutory applications only to protract the trial proceedings. Further it is noted that after obtaining interim order from this Court on 12.06.2014, the petitioner/defendant has slept for over five years and no attempt was made to list the present case for final

disposal, so that the suit can be taken up for hearing.

7. I am of the view that the present civil revision petition has no merits and it is liable to be dismissed. Further considering the fact that the respondents/plaintiffs had filed applications in I.A.Nos.22 of 2014 and 24 of 2014 which culminated in the impugned fair and decreetal order, the amount of Rs.1,000/- (Rupees thousand only) awarded as cost, appears to be low.

8. Consequently, while dismissing the civil revision petition I direct the respondents/plaintiffs to pay a sum of Rs.4,000/- (Rupees four thousand only) within a period of four weeks from the date of receipt of a copy of this order.

9. The II Additional District Munsif Court, Erode is directed to take up the suit in O.S.No.664 of 2008 for final hearing and pass judgment and decree within a period of six months from the date of receipt of a communication of this order.

C. SARAVANAN, J.

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10. With the above directions, these Revision Petitions are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are also closed.

12.04.2019

Index : Yes/No
Internet : Yes/No
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To

II Additional District Munsif Court,
Erode.

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