



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08.11.2019

CORAM:

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

CRP. (MD).No.1590 of 2012 (PD)

and

M.P. (MD).No.1 of 2012

K.Rengarajan

...Petitioner

Vs.

T.Murugesan

...Respondent

PRAYER: This Petition filed under Article 227 of the Constitution of India to call for the records relating to the order dated 11.07.2012 in I.A.No.647 of 2012 in O.S.No.996 of 2011, on the file of the I Additional District Munsif, Trichy and set aside the same and allow this Civil Revision Petition.

For Petitioner : Mr.I.Vel Pradeep

For Respondent : Mr.R.Saravanan

O R D E R

This Civil Revision Petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Order 8 Rule 9 of the Code of Civil Procedure to file an additional written statement.

2. The respondent / plaintiff filed a suit seeking for the relief of recovery of money based on a promissory note. The petitioner filed a written statement on 25.11.2011. The issues were framed and the case was at the stage of trial. At that point of time, the present application came to be filed seeking for the leave of the Court to file an additional written statement. The same was dismissed and the order has become a subject matter of challenge in this petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner did not introduce any new case and he only wanted to state what was already taken as a ground in the reply notice, in the additional written statement. This plea was left due to oversight and therefore, no new plea has been raised before the Court below and the Court below was not right in dismissing the application and an opportunity ought to have been given to the petitioner.

4. Per contra, the learned counsel appearing for the respondent submitted that this application was filed with a clear attempt to drag on the proceedings. The learned counsel further submitted that whatever the petitioner was attempting to plead by way of an additional written statement was a fact, which was available even at the time when the original written statement was filed. The learned counsel submitted that the Court below has considered the issue elaborately and there are no grounds to interfere with the same.



5. This Court has carefully considered the submissions made on either side and the materials available on record.

6. A reading of the order passed by the Court below shows that the Court below was swayed by the fact that the additional written statement was attempted to be filed after nearly one year after filing of the original written statement. It is seen that what was attempted to be brought in by way of additional written statement was the plea that was already taken in the reply notice given by the petitioner to the respondent before the institution of the suit. Therefore, the petitioner was not attempting to bring anything new in this case and the petitioner was only attempting to reiterate a stand that has been taken in the reply notice. The Court below could have allowed the application and by allowing the application, it would not have in anyway delayed the proceedings. Even after allowing the application, the Court below could have proceeded further with the trial. Due to the dismissal of the application, the suit is now pending for the last eight years.

7. In the facts and circumstances of the case, this Court is of the considered view that the petitioner must be given an opportunity to file an additional written statement. Accordingly, the fair and final order passed by the Court below in I.A.No.647 of 2012, dated 11.07.2012, is hereby set aside. The additional written statement is directed to be taken on file.

8. In the result, this Civil Revision Petition is allowed and the Court below is directed to complete the proceedings in O.S.No.996 of 2011, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The I Additional District Munsif, Trichy.

2.The Record Keeper,V.R. Section,

Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.SARAVANAN, Advocate (SR-97046[F] dated 08/11/2019)
tsg

CRP. (MD) .No.1590 of 2012 (PD)
08.11.2019

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