



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2019

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THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD) .No.633 of 2019 (PD)

and

C.M.P. (MD) .No.3233 of 2019

WEB COPY

1.Mr.M.Rasu

2.Mrs.R.Pasupathi

... Petitioners/Petitioners/Defendants

Vs.

Mr.K.Ramasamy

... Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and executable order passed in I.A.No.140/2018 in O.S.No.45 of 2017 pending on the file of the principal District Court, Theni.

For Petitioners : Mr.M.Senthilkumar

For Respondent : Mr.V.George Raja,
for M/s.Ajmal Associates

ORDER

This Civil Revision petition has been preferred against the fair and executable order passed in I.A.No.140/2018 in O.S.No.45 of 2017 pending on the file of the principal District Court, Theni.

2.The revision petitioners, who are the defendants has filed I.A.No.140 of 2018 to accept and permit the additional written statement in the suit in O.S.No.45 of 2017 on the side of the defendants.

3.In the said I.A., the revision petitioners/defendants contended that even prior to the execution of the mortgage deed, the defendants had already executed a mortgage in favour of Canara Bank, Bodinayakkanur Branch and the said loan is also pending. Further, if the said loan is prior to the earlier mortgage, the Canara Bank, Bodinayakkanur is also a necessary party to the suit and the defendants have failed to mention the same at the time of filing the written statement. Hence, the present I.A., has been filed to accept the additional written statement.

4.The plaintiff has filed his counter affidavit stating that the evidence made in the said I.A., for filing the additional written statement and also making the Canara Bank as a necessary party is very much objected to by him, since the defendants have not



stated anything at the first instance and the suit was posted for trial and there is no bonafide in filing the said I.A.

5.The trial Court has observed the contention raised by both sides and the filing of the present I.A., that even prior to the execution of the mortgage deed, the defendants had already executed a mortgage in favour of Canara Bank, Bodinayakkanur Branch and the said loan is also pending and the mortgage which is stated in the present suit is subsequent to the earlier loan and that it is the duty of the defendants to state the fact at the earliest point of time in the written statement and that the issues have been framed and the trial has been commenced and even in the petition to file additional written statement as well as for making the Bank as a necessary party, the defendants have not furnished any details and hence, the trial Court has dismissed the said I.A. Against which, the present Civil Revision Petition has been filed.

6.On a perusal of records, it is observed that without furnishing the aforestated details, the only intention of filing the present I.A., is to drag on the proceedings and if the fact is true, they would have mentioned the same earlier in the written statement or atleast in the present petition. The defendants without furnishing those details, have filed the present petition, which shows that there is no bonafide and hence, the order of the trial Court is very much reasonable, which does not require any interference.

7.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

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To

1.The principal District Judge, Theni.

2.The Record Keeper, VR Section,
Madurai Bench of Madras High Court, Madurai(2 copies).

+1 CC to M/s.M.SENTHIL KUMAR,Advocate(SR-62182[F] dated 24/04/2019)

+1 CC to M/s.AJMAL ASSOCIATES,Advocate(SR-62582[F] dated 25/04/2019)

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