

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2020

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

C.R.P(PD).No.4182 of 2015

and

M.P.No.1 of 2015

1.K.Arul Sanjeevi
2.S.Vijayalakshmi
3.S.Poongothai

... Petitioners

Vs.

1.P.Senkodan
2.R.Natarajan

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 05.08.2015 passed in I.A.No.519 of 2015 in O.S.No.684 of 2009 on the file of the Third Additional Subordinate Judge, Coimbatore, by allowing this Civil Revision Petition.

For Petitioners : Ms.Elizabeth Ravi for
Mr.S.Subbiah, Senior Advocate

For Respondents : Mr.E.K.Kumaresan

ORDER

This Civil Revision Petition has been filed by the Respondents/Plaintiffs against the order passed by the III Additional Sub Judge, Coimbatore in I.A.No.519 of 2015 in O.S.No.684 of 2009 dated 05.08.2015.

2.The respondents herein, who are the defendants 12 and 13 had filed an application in I.A.No.519 of 2015 in O.S.No.684 of 2009 on the file of the III Additional Subordinate Judge, Coimbatore under Order VIII rule 9 and Section 151 of the CPC seeking permission of the Court to file additional written statement. The learned III Additional Subordinate Judge, Coimbatore had passed an order that the said application will be allowed on payment of cost of RS.3,000/- to the respondents/Plaintiffs. Feeling aggrieved, the respondents/plaintiffs have filed the present Civil Revision Petition.

3.Heard Ms.Elizabeth Ravi, learned counsel for Mr.S.Subbiah, learned Senior Advocate appearing for the petitioners and Mr.E.K.Kumaresan, learned counsel appearing for the respondents.

4. The learned counsel for the petitioners/plaintiffs has submitted that the petitioners herein had filed a suit in O.S.No.684 of 2009 on the file of the III Additional Subordinate Judge, Coimbatore for the relief of partition and permanent injunction. She further submitted that during pendency of the said suit, the respondents herein had filed an application in I.A.No.603 of 2010 to receive additional written statement and the same was dismissed by the Trial Court. As against the same, the respondents herein had filed CRP(PD) No.246 of 2011 before this Court. This Court, by the order dated 02.02.2012, had dismissed the said Civil Revision Petition, confirming the order of the Trial Court. She further submitted that, thereafter the trial commenced, and since the first plaintiff did not cooperate with the other plaintiffs, the other plaintiffs had filed an application to transpose the first plaintiff as 15th defendant and the same was allowed. Accordingly, the plaint was amended and thereafter, the defendants 12 and 13 had filed an application in I.A.No.519 of 2015 seeking permission of the Court to file additional Written Statement on the ground that after transposing the first plaintiff as 15th defendant, no opportunity was been given to them for filing additional written statement. The Trial Court had allowed the said application without considering the fact that, the respondents herein had

filed an application to receive the additional written statement not only with regard to transposing of the first plaintiff as 15th defendant and also raised new pleadings. Therefore, she prayed to allow this Civil Revision Petition and set aside the order passed by the Trial Court in I.A.No.519 of 2015.

5.Per contra, the learned counsel for the respondents has submitted that since one of the plaintiffs, namely first plaintiff was transposed as 15th defendant, the petitioners being the defendants, they are entitled to file additional written statement and hence, they filed an application in I.A.No.519 of 2013 seeking permission of the Court to file additional written statement and the Trial Court after considering the same had allowed the said application on payment of cost and in the said order this Court need not interfere and therefore, he prayed to dismiss the Civil Revision Petition.

6.A perusal of the order passed by the Trial Court in I.A.No.519 of 2015 in O.S.No.684 of 2009, shows that since the first plaintiff was transposed as one of the defendants, a chance has to be given to the defendants to file additional written statement if any, in this regard. Therefore, the respondents/defendants 12 and 13 are entitled to file additional written statement only with regard to the transposing of the

first plaintiff as one of the defendants. Beyond that they cannot take any other defence by way of additional written statement.

7.The additional written statement, which was filed along with I.A.No.519 of 2015, shows that the respondents/defendants 12 and 13 have pleaded beyond the permission granted by the Trial Court and hence, the Trial Court is directed to reject the said additional written statement and give an opportunity to the respondents/defendants 12 and 13 to file additional written statement with regard to the transposing of the first plaintiff as one of the defendants alone. Even thereafter, if the defendants 12 and 13 have pleaded anything more beyond the aforesaid permission, it is open to the Trial Court to reject the said additional written statement and proceed with the case in accordance with law.

8.With the aforesaid directions, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index :Yes/No

Internet : Yes/No

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CRP (PD).No.4182 of 2015

P.RAJAMANICKAM.J.,

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To

The III Additional Subordinate Judge, Coimbatore.



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