



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06.10.2020

CORAM :

THE HONOURABLE MR.JUSTICE **N.SESHASAYEE**

C.R.P (MD) Nos.2648 and 2649 of 2018

and

C.M.P. (MD) No.11580 of 2018

J.Thomas

..Revision Petitioner/1st Respondent
/Plaintiff-in both petitions

Vs.

1.Johnson

2.Mohammed Salim

3.Hug

4.Alloy

5.ICICI Bank,
Through its Bank Manager,
V.E.Road, Thoothukudi.

6.TASMAC shop
Through its Supervisor,
No.113L, Polpettai,
Thoothukudi-2.

7.The State of Tamil Nadu,
Represented by the District Collector,
Thoothukudi.

...Respondents /Respondents
/Defendants

(Respondents in CRP (MD) No.2648/2018)

1.Mohammed Salim

2.Johnson

3.Hug

4.Alloy

...Respondents 1-4/Petitioners 1-4
/Defendants 1-4

5.ICICI Bank,
Through its Bank Manager,
V.E.Road, Thoothukudi.

6.TASMAC shop
Through its Supervisor,
No.113L, Polpettai,
Thoothukudi-2.



7.The State of Tamil Nadu,

Represented by the District Collector,
Thoothukudi.

...Respondents 5 to 7/Respondents 2-4
/Defendants 5-7

(Respondents in CRP(MD)No.6849 of 2018)

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COMMON PRAYER: The Civil Revision Petitions are filed under Section 227 of the Constitution of India, against the order and decretal order dated 22.10.2018 made in I.A.Nos.359 of 2017 and 549 of 2018 in O.S.No.440 of 2015 on the file of the Sub Court, Tuticorin.

(in both petitions)

For Petitioner : Mr.S.Sivathilakar

For Respondents : Mr.G.Sridharan

COMMON ORDER

The plaintiff in O.S.No.440 of 2015 has come forward with these two revision petitions. The brief facts that led to the filing of these revisions are stated: The revision petitioner has laid the suit in O.S.No.440 of 2015 before the Sub Court, Thoothukudi for declaration of his title and recovery of possession of the suit property from defendants 1 to 6; the defendants 1 to 3, 6 and 7 have not filed their written statement within statutorily stipulated time and hence, the plaintiff filed I.A.No.359 of 2017 to set the defendants 1 to 3, 6 and 7 exparte. This petition was filed on 20.04.2017. On that very date, the second defendant had filed his written statement. While so, I.A.No.359 of 2017 was posted for filing counter and as the defendants 1 to 3, 6 and 7 did not file their counter to I.A.No.359 of 2017, on 27.06.2018 they were set exparte. The matter was posted for orders on 18.07.2018. On that date, a memo was filed before the Court by the defendants 1, 3 and 4 are adopting the written statement of the second defendant. It is in these circumstances, the defendants 1 to 4 have filed I.A.No.549 of 2017 in I.A.No.359 of 2017 to set aside the exparte order passed in I.A.No.359 of 2017.

2. The trial Court considered the objections together and by its common order, allowed I.A.No.549 of 2017 and dismissed I.A.No.359 of 2017, inasmuch as the written statements of the defendants 1 to 4 have been filed. In its order, the trial Court also refers to I.A.No.340 of 2016, which the plaintiff himself has filed for amending the plaint and I.A.No.907 of 2016, which he had filed for impleading the eighth defendant. In fact, the trial Court observed that I.A.No.340 of 2016 was allowed on 12.09.2016 and till 20.04.2017, the plaintiff himself has not carried out necessary amendment. I.A.No.907 of 2016 too was allowed on 27.06.2018. The



trial Court has also recorded the argument of the respondents herein that till 22.06.2018 even the pleadings of the plaintiff are not complete. However, it pales into insignificance, since the second defendant has filed written statement even on 20.04.2017. Subsequently, it was adopted by defendants 1, 3 and 4. Felt aggrieved by the orders of the trial Court, the plaintiff has moved this Court with these revision petitions.

3. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

4. It may have to be stated at the outset, time prescribed under Order 8 Rule 1 C.P.C., for filing written statement has been held directly in Salem Bar Association case. It might have been appropriate for the trial Court to abide by the provisions as closely as possible but it does not mean that the plaintiff will have right to seek the court to set the defendants ex-parte especially when one of the defendants had filed his written statement even on the very date on which I.A.No.359 of 2017 was laid which written statement later came to be adopted by the other defendants. Ultimately, when the pleadings have come before the Court, it may not be appropriate for the trial Court to reject it on a procedural plea. In conclusion, this Court does not find any merit in these petitions.

5. This Court repeatedly observes that the trial court keeps pending very many innocuous interlocutory petitions which hamper the progress of the case to next stage. It would be appreciable if the trial Court understands the seriousness of the implications of what it does, which ultimately fetter only its responsibility in disposing the case.

6. In fine, these Revisions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

ta/cm

To,

1.The Subordinate Judge,
Tuticorin.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G. SRIDHARAN, Advocate (SR-19197[F] dated 06/10/2020)

+1 CC to M/s.S. SIVA THILAKAR, Advocate (SR-19188[F] dated
06/10/2020)

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SMV (CO)

NR (22/10/2020) 4P : 5C