

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2021

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.R.P.(PD)No.283 of 2018
and CMP No.1554 of 2018

A.Palanisamy

.... Petitioner

Vs

Valliathal @ Vasanthamani

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, prayed to set aside the fair and decreetal order dated 14.12.2017 passed in I.A.No.1666 of 2017 in O.S.No.121 of 2014 on the file of District Munsif, Avinashi and allow the same.

For Petitioner : Mr.V.P.Sengottuvel

For Respondent : No appearance

ORDER

Challenging the fair and decreetal order passed in I.A.No.1666 of 2017 in O.S.No.121 of 2014 on the file of District Munsif, Aviniashi, the fourth defendant has filed the above revision.

2. Despite service of notice and the name of the respondent having been printed in the cause list, none appeared for the respondent today. Therefore, this Court has proceeded with the matter after hearing the submissions made by the learned counsel for the revision petitioner.

3. According to the revision petitioner / the fourth defendant, he has filed a petition under Order VIII Rule 9 of Civil Procedure Code seeking permission to file an additional written statement. However, the Court below, after hearing the submissions made on either side, rejected the application filed by the fourth defendant stating that by filing additional written statement, the revision petitioner is trying to introduce a new fact which would affect the entire stand taken by the defendants in the original written statement. Aggrieved by the order, the revision petitioner / fourth defendant has filed the present revision petition.

4. Learned counsel for the revision petitioner submits that additional written statement was sought to be filed only to substantiate his plea made in the original written statement and by virtue of filing additional written

statement, he is not at all introducing any new plea apart from what is stated in the original written statement and it will not alter the stand taken in the original written statement. He further submits that the Court below, without considering all these facts, refused to grant permission to file an additional written statement stating that permitting to file an additional written statement would alter the stand already taken in the written statement. Learned counsel further submits that the revision petitioner is not at all introducing any new plea and therefore, there is no impediment for the Court below to grant permission to file an additional written statement.

5. Heard learned counsel for the revision petitioner and perused the materials available on record.

6. The revision petitioner has filed a petition under Order VIII Rule 9 of Code of Civil Procedure seeking permission to file an additional written statement for supplying more materials to substantiate his plea in the original written statement and also to bring it to the knowledge of the Court below about the grant of UDR patta and also about the decree passed in partition suit in

O.S.No.169 of 2005 since they are relevant to the present case and the subject matter of the present suit as well as earlier suits are one and the same between brother and sister.

7. The stand of the revision petitioner in the original written statement is that as per the decree passed in the suit in O.S.Nos.169 of 2005 and 201 of 2012, the revision petitioner along with the defendants therein, is in possession and enjoyment of the property and this stand was taken by the revision petitioner in the original written statement and to support the stand, he wants to file an additional written statement.

8. On perusal, it appears that the revision petitioner / fourth defendant has not introduced any new facts to alter or to introduce new plea which are contradictory to the views already taken in the original written statement and all these facts have not been taken into account by the Court below.

9. Considering the facts and circumstances of the case, this Court feels that in the interest of justice, it would be appropriate to allow the revision

petitioner to file an additional written statement and thereby the Court below can render complete justice.

10. In view of the above, this Court is inclined to interfere with the fair and decreetal order passed by the District Munsif, Avinashi by invoking Article 227 of the Constitution of India and accordingly, the fair and decreetal order dated 14.12.2017 in I.A.No.1666 of 2017 in O.S.No.121 of 2014 passed by the District Munsif, Avinashi are set aside.

11. The revision petitioner / fourth defendant is permitted to file an additional written statement and the Court below is directed to take the same on record and if at all the plaintiff wants to file a reply to the additional written statement to be filed, he may be granted sufficient time. Since the revision petitioner has not introduced any new plea, there is no need for framing any new issues and the Court below can proceed with the existing issues already framed. But, if the plaintiff files a reply to the additional written statement to be filed, in such a case, the Court below can frame additional issues, if required.

12. With the above observation, the civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

02.02.2021

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

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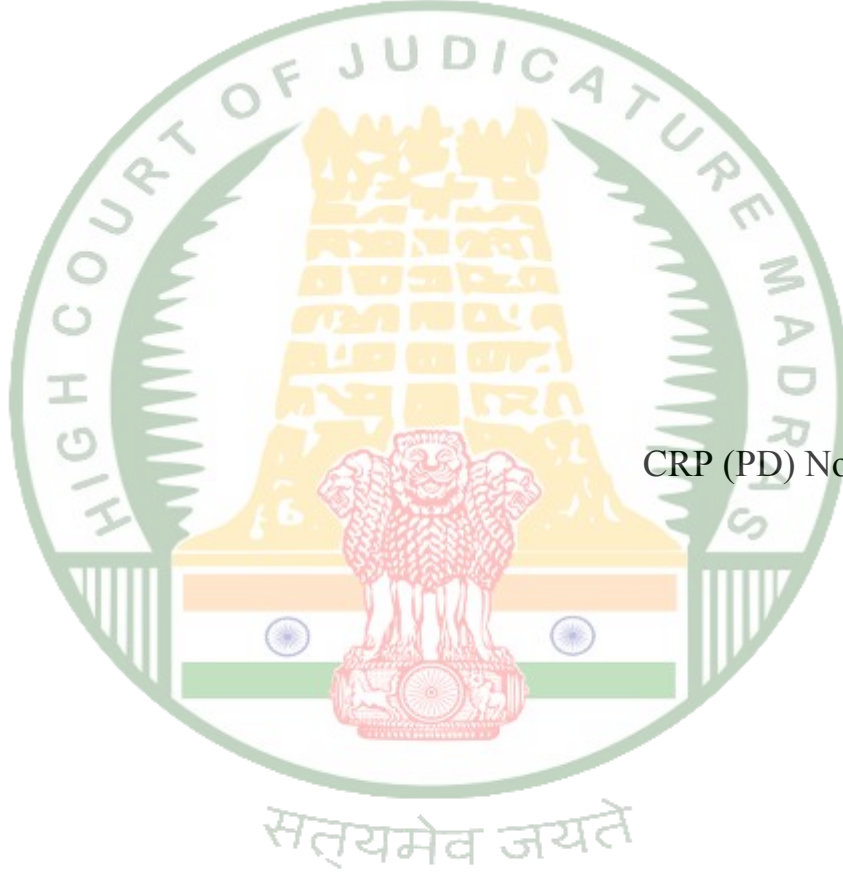
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KRISHNAN RAMASAMY,J.

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