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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P. No.1508 of 2021

(Through Video Conference)

D.Purushothaman

.. Petitioner

Versus

Shobana

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decretal order dated 01.04.2021 passed by the learned Subordinate Judge, Poonamallee in I.A.No.96 of 2020 in H.M.O.P.No.337 of 2018.

For Petitioner : Mr.R.Vijayaraghavan

O R D E R

This Civil Revision Petition has been filed to set aside the order passed by the learned Subordinate Judge, Poonamallee in I.A.No.96 of 2020 in H.M.O.P.No.337 of 2018 on 01.04.2021.

2. This I.A. was filed under Order VIII Rule 9 of the Civil Procedure Code, seeking permission by the respondent to file additional counter.

3.The learned Subordinate Judge, Poonamallee, after considering the rival submissions, allowed the petition and permitted the respondent to file additional counter. Against the said order, this Civil Revision Petition has been filed.

4. Learned counsel appearing for the petitioner drew the attention of this Court to paragraph no.2 of the affidavit filed



by the respondent therein in support of her petition stating that the earlier counter did not contain the details which she conveyed to her counsel. Therefore, she now wants to file additional counter.

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5. The learned counsel for the petitioner herein further submitted that this amounts to making an allegation against the earlier counsel without any substance. That apart, he submitted that the respondent was set exparte for not filing the counter and only after the ex parte order was set aside, the counter was filed. Then, she came up with this petition for receiving the additional counter. It shows her conduct to protract the proceedings.

6. It is seen that the respondent makes a specific case that she had given certain details about the case to her previous counsel and those details have not been incorporated in the counter. Whether this allegation is true or not, this Court is of the considered view that the parties should be given a necessary opportunity to put forth their case when the matter is pending before the trial Court. If that opportunity is denied, that will lead to miscarriage of justice. In this view of the matter, this Court is of the considered view that the order passed by the learned Subordinate Judge, Poonamallee in I.A.No.96 of 2020 in H.M.O.P.No.337 of 2018 on 01.04.2021 permitting the respondent to file additional counter, needs no interference and however, considering the submission of the learned counsel for the petitioner that the respondent is trying to protract the proceedings, the learned Subordinate Judge, Poonamallee is directed to dispose of the case as early as possible, preferably within a period of three(03) months from the date of receipt of a copy of this order. It is also made clear that if the petitioner, chooses to file a reply counter, the trial Court is directed to receive the reply counter of the petitioner. Accordingly, this Civil Revision Petition is Disposed of. No costs.

Sd/-

Assistant Registrar (CS-IX)

// True Copy//

Sub Assistant Registrar

sts



To:

The Subordinate Judge,
Poonamallee.

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+1cc to M/s.R.Vijayaraghavan, Advocate, S.R.No.38360

Order made in
C.R.P. No.1508 of 2021

CNR (CO)
SU (03/09/2021)