

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(PD) No.1357 of 2021

1.Shanmugam

2.Muthusamy

...Petitioners

Vs.

1.Kandasamy

2.Vijay Peritchiappan

3.Chellappan

4.Rani

5.D.Mangaiyarkarasi

6.Ayyakgounder

7.K.P.Palanisamy

...Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 11.11.2020 made in I.A.No.974 of 2018 in O.S.No.184 of 2010 on the file of the District Munsif Court, Gobichettipalayam.

For Petitioners : Mr.K.Sasindran

ORDER

This Civil Revision Petition is filed, to set aside the order dated 11.11.2020 made in I.A.No.974 of 2018 in O.S.No.184 of 2010 on the file of the District Munsif Court, Gobichettipalayam.

2.The I.A.No.974 of 2018 was filed under Order 8 Rule 9 of CPC, seeking to file additional written statement on behalf of the defendants. It is stated in the affidavit filed in support of the petition to receive additional written statement that certain vital aspects with regard to the merits of the case has been omitted in the written statement.

3.The said petition was opposed by the petitioners herein, who are the respondents in the Interlocutory Application on the ground that the petition to receive additional written statement was filed only to drag the proceedings and a new case has been set up in contravention of Order 6 Rule 7 of CPC. Further the additional written statement is totally inconsistent and contrary to the written statement already filed. Therefore the petitioners prayed for dismissal of this petition.

4.After considering the rival submissions, the learned trial Judge allowed the petition stating the reasons that some parties were impleaded in the suit and if the defendants are not given opportunity to file additional written statement they will be prejudiced and the trial has not been commenced so far. It is also stated that the respondents would have liberty to file reply statement opposing the averments made in the additional written statement.

5.It is seen from the order that some of the parties were impleaded after filing of the suit. Further the affidavit filed in support of the petition to receive additional written statement states that some material facts which are germane for the disposal of the case have been inadvertently omitted in the written statement. Those facts came to the knowledge of the petitioners only after getting the Encumbrance Certificate. Now, therefore they must be given an opportunity to put forth their case by filing additional written statement. The reasons for filing the petition to receive additional written statement seems reasonable and acceptable.

6.Further the suit is of the year 2010 and this Court is of the considered view that the respondent may be permitted to file additional written statement with a liberty to the petitioner to file reply statement, if so advised.

7.After completion of pleadings and framing additional issues, the District Munsif Court, Gobichettipalayam, is directed to dispose of the case as expeditiously as possible preferably within a period of three months.

8.In view of the above, order dated 11.11.2020 in I.A.No.974 of 2018 passed by the District Munsif, Gobichettipalayam, is hereby confirmed and this Civil Miscellaneous Petition is dismissed. No costs.

सत्यमेव जयते

04.08.2021

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Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

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To

1.The District Munsif Court

Gobichettipalayam.

2.The Section Officer

VR Section

High Court of Madras.



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G.CHANDRASEKHARAN.J,

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