



C.R.P.(PD).No.2429 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.2429 of 2021

and

C.M.P.No.18450 of 2021

P.Sureshkumar

.. Petitioner

Vs.

1. P.Parameshwari

2. P.Lakshmikanthan

3. D.Subramanian

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 23.08.2021 made in I.A.No.5 of 2021 in O.S.No.5 of 2015 on the file of the Subordinate Court, Perundurai.

For Petitioner : Mr.N.Manoharan



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ORDER

Challenge in this Revision is to the order of the learned Subordinate Judge, Perundurai in I.A.No.5 of 2021 in O.S.No.5 of 2015, an application seeking reception of reply statement filed by the plaintiff under Order VIII Rule 9 of the Code of Civil Procedure.

2. The suit is one for partition and separate possession of 1/3rd share in the suit properties. The suit is being resisted by the defendants contending that the plaintiff is not entitled to 1/3rd share and there were certain earlier litigation between the parties.

3. The trial commenced and the evidence of the defendants was being recorded. At this stage, the plaintiff came up with the instant application seeking leave to file the reply statement, wherein, the plaintiff wanted to place on record certain earlier proceedings between the 3rd defendant and the plaintiff in O.S.No.168 of 2013.

4. The said suit was filed by the 3rd defendant seeking specific



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performance of an agreement of sale and the suit ended in a Second Appeal before this Court. It is claimed that in S.A.No.294 of 2017, this Court had held that any finding regarding the right of the parties to share in the suit property will not operate as *res judicata*, the same should be decided afresh in the present suit viz., O.S.No.5 of 2015.

5. The plaintiff wanted to place on record those judgments in the form of reply statement. This was opposed by the defendants contending that the judgments were marked before the Court and there is no need for filing a reply statement. The suit is in a part heard stage. The evidence of defendants is being recorded. The application is delayed.

6. The learned Trial Judge who heard the application found that the reply statement is nothing but an explanation to the judgments rendered in O.S.No.168 of 2013, A.S.No.87 of 2015 and S.A.No.295 of 2017. The learned trial Judge concluded that since the judgments have already been exhibited, there is no need for any pleadings explaining the contents of the judgments. The learned trial Judge had infact found that the reply statement



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which is in the nature of explanation of the judgments is wholly unwarranted and dismissed the application.

7. I have heard Mr.N.Manokaran, learned counsel appearing for the petitioner.

8. The learned counsel would vehemently contend that since the plaintiff is not introducing any new case and he only seeks to explain the judgments rendered by the Courts in earlier proceedings, the trial Court was not right in rejecting the request for filing the reply statement.

9. I am unable to agree with the learned counsel for the petitioner. A reply statement or a subsequent pleading can be introduced only to place on record a new fact or explanation to certain pleadings in the written statement or in the plaint which had already been filed. The reply statement to explain the contents of the judgment is not known to law. As rightly pointed out by the trial Judge the judgments have already been marked as exhibits and those judgments are self-explanatory.



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10. I therefore do not see any reason to interfere with the conclusions of the learned trial Judge that the reply statement is un-necessary. Thus, the Revision fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

17.11.2021

dsa/ham

Index : No

Internet : Yes

Speaking order

To

The Subordinate Judge,
Perundurai.



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R.SUBRAMANIAN, J.

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