



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD).NO.2570 OF 2021

AND

CMP.NO.19096 OF 2021

P.N.Prasanna Devi

..Petitioner

Vs.

Ashok Kumar Maheswari

..Respondent

Praye: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 26.08.2021 passed in IA.No.1 of 2019 in OS.No.6807 of 2019 on the file of the I-Additional City Civil Court, Chennai.

For Petitioner : Mr.R.Manickavel

For Respondent : Mr.P.Sreenivasalu
Mr.N.C.Radhakrishnan
for Caveator

O R D E R

Challenge in this revision is to the order of the I-Additional District Judge, City Civil Court, Chennai made in IA.No.1 of 2019 in OS.No.6807 of 2019 seeking amendment of the written statement filed in the said suit.

2.The suit was one for specific performance filed by the respondent based on an agreement of sale dated 05.12.2008. The suit, originally filed in this Court in CS.No.542 of 2012, was transferred to the City Civil Court and numbered as OS.No.6807 of 2019. The petitioner herein as a defendant in the suit filed a written statement claiming that the suit agreement was created by the plaintiff therein in collusion with one C.H.Venkateswara Rao, who is a Financier, from whom the father of the plaintiff had borrowed certain monies. It is also claimed that the said Venkateswara Rao, through his wife Kanakadurga has filed a suit for recovery of money against the petitioner herein.



3. In the original written statement, it is claimed that there was a borrowing of Rs.30,00,000/- by the father of the petitioner from Venkateswara Rao and it was also claimed, as a security for the borrowing, she was compelled to execute a power of attorney in favour of said Venkateswara Rao for securing repayment of Rs.30,00,000/-. It is also claimed that Venkateswara Rao had taken signatures of the petitioner in several blank papers and stamp papers with the help of which, he has created the suit agreement.

4. After the trial commenced, the petitioner has come up with an application in IA.No.1 of 2019 seeking to amend the written statement. The proposed amendment starts as follows:-

"The pleadings in the written statement are contrary to the truth."

By the proposed amendment, the petitioner sought to delete Para 4, which relates to the borrowing from Venkateswara Rao and substitute a new paragraph claiming that there was a business transaction between Venkateswara Rao and the plaintiff's father for purchase of a property in Kothagiri for Rs.60,00,000/- and Venkateswara Rao had made an initial payment of Rs.30,00,000/-. The plaintiff's father, who was to pay the remaining Rs.30,00,000/- could not pay the same and the transaction thus, failed. Therefore, Venkateswara Rao now wants to saddle the liability on the plaintiff's father. The learned Trial Judge, upon consideration of the proposed amendment concluded that the proposed amendment would amount to withdrawal of an admission made in the original pleading. The learned Trial Judge also found that the amendment sought for is belated and is hit by proviso to Order 6 Rule 17 of C.P.C., in as much as, the petitioner had not given any reason as to why she did not file this application earlier in point of time.

5. I have heard Mr.R.Manickavel, learned counsel appearing for the petitioner.

6. Mr.R.Manickavel would vehemently contend that the proviso to Order 6 Rule 17 would not apply to amendment of a written statement or an application filed under Order 8 Rule 9 of C.P.C., and therefore, the Trial Court was not right in dismissing the said application. Even assuming that the proviso would not be attracted, I do not think the amendment could be allowed. This Court as well as the Hon'ble Supreme Court have time and again reiterated that an admission made in the pleadings cannot be withdrawn at a later point of time. In the original pleading, there was a categorical admission about the borrowing from Venkateswara Rao. Now after Venkateswara Rao's



wife launched a suit for recovery of money, the petitioner wants to withdraw the said admission and to make it to appear as if no money is due. I do not think, she could be allowed do that. This Court in Lalitha & 2 Others Vs. Shanthi reported in 2002 (4) CTC 89 have held that the admission made in the pleadings cannot be withdrawn at a later point of time.

7. In view of the same, I do not think, the Trial Court could be faulted for having dismissed the application. This civil revision fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To:-

The I-Additional District Judge,
City Civil Court, Chennai.

+1cc to Mr.R.Manickavel, Advocate, S.R.No.61829

+1cc to Mr.P.Sreenivasalu, Advocate, S.R.No.62535

C.R.P(PD).No.2570 of 2021
and
CMP.No.19096 of 2021

KG(CO)
RLP(17/12/2021)