

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD) No.3938 of 2017

and

CMP.No.18408 of 2017

P.Kannan

.... Petitioner

Vs.

1. K.Pariasamy
2. K.P.Sakthivel
3. Minor S.Thiyanesh
4. Minor S.Boovitha
R3 & R4 are represented by
their next friend/father K.P.Sakthivel
5. Kunjayee @ Sellammal
6. Mallika
7. R.Valliammal
8. Thangavel
9. The Village Administrative Officer,
Karumapuram Village,
Karumapuram Post,
Tiruchengode Taluk,
Namakkal District.
10. The Tahsildar,
Tiruchengode Taluk,
Namakkal District.
11. The Collector,
Namakkal District,
Namakkal.

... Respondents

Prayer:- Civil Revision Petition filed under Section 227 of The Constitution of India, praying to set aside the order dated 19.07.2017 made in I.A.No.122 of 2016 in O.S.No.7 of 2015 on the file of the Principal District Munsif Court, Tiruchengode by allowing this Civil Revision Petition.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.R.Marudhachalamurthy for R1 & R2
R3, R4, R6 & R8 - Notice served
R5 & R7 - Not Ready in Notice
Mr.S.Jaganathan
Government Advocate (CS) for R9 to R11

ORDER

This Civil Revision Petition is directed as against the order dated 19.07.2017 made in I.A.No.122 of 2016 in O.S.No.7 of 2015 on the file of the learned Principal District Munsif, Tiruchengode, thereby, allowing the petition seeking permission to file a reply statement in the Additional Written Statement.

2. The petitioner is the plaintiff and the respondents are the defendants.

The petitioner filed a suit for declaration and injunction. The respondents filed a written statement. Thereafter, the petitioner filed a petition seeking

permission to receive the reply statement for the written statement filed by the respondents.

3. The learned counsel for the petitioner would submit that the respondents filed written statement and stated that the plaintiff was admitted as if his grandfather and father died interstate. This statement is completely false and misleading. Therefore, the petitioner is necessarily to file a reply denying the said fact is false and also misleading one. Further, he submitted that the reply statement has not caused any prejudice or change of pleadings of the plaint, it can be allowed. In support of his contentions, he also relied upon the paragraphs 13 to 16 of the judgment in ***Olympic Industries V. Mulla Hussainy Bhai Mulla Akberally and Ors.*** reported in (2009) 15 SCC 528, wherein the Hon'ble Supreme Court of India held that it is a well settled law that the Courts should be more generous in allowing the amendment of counter statement of the defendant than in the case of plaint. In the case on hand, after filing the written statement by the respondents herein, the petitioner seeks permission to file a reply statement.

4. On perusal of the reply statement revealed that the petitioner came with new plea that the gift settlement and Will dated 14.11.2010, which is introduction of new averment in the plaint and it would cause prejudice to the

respondents. Therefore, the above judgment is not helpful to the case on hand.

5. In view of the above discussion, this Court finds no irregularity or infirmity in the order passed by the Court below and accordingly, this Civil Revision Petition is dismissed. However, the petitioner is at liberty to let in evidence in this regard during the trial. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

17.03.2021

Index : Yes/No

Speaking order/Non-speaking order
kmi

To

1. The Principal District Munsif,
Tiruchengode.

2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

सत्यमेव जयते
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C.R.P.(PD)No.341 of 2017

G.K.ILANTHIRAIYAN, J.

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and CMP.No.18408 of 2017

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