



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.04.2021

Pronounced on : 28.04.2021

WEB COPY

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.R.P. (PD) (MD) .No.683 of 2021

and

C.M.P (MD) .No.3757 of 2021

Padhmavathi : Petitioner

Vs.

Radhakrishnan : Respondent

PRAYER:- Criminal Revision Petition is against the fair and decreetal order dated 25.02.2020 passed in I.A.No.05 of 2019 in O.S.No.76 of 2009 on the file of the learned Subordinate Judge, Tuticorin.

For petitioner : Mr.Ka.Ramakrishnan

ORDER

This revision is directed against the order passed in I.A.No.5 of 2019 in O.S.No.76 of 2009, dated 25.02.2020 on the file of the Subordinate Court, Thoothukudi, dismissing the application for receiving the written statement of the first defendant/revision petitioner herein. It is evident from the records that the revision petitioner, who was the only defendant at the time of filing of the suit, has not filed the written statement, but she filed a memo to treat the counter statement filed in I.A.No.233 of 2009 as her written statement for the suit and the same was recorded. It is further evident that the trial was commenced and the respondent/plaintiff was examined in Chief and he was subjected to cross-examination by the revision petitioner's side and that subsequently, the plaintiff has filed an application to implead two more defendants and the same was allowed. It is further evident that after filing of the written statement of the newly impleaded defendants 2 and 3, additional issues were framed and P.W.1 was subjected to cross-examination by the defendants 2 and 3 and another witness P.W.3 was also examined.

2.The learned counsel for the revision petitioner would submit
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that after closing of the plaintiff's side evidence, the trial Court posted the case for the evidence of D2 and D3, without giving any opportunity to the revision petitioner, who is the first defendant, to adduce her side evidence and after closing of the defendants' side evidence, the case was posted for arguments. He would further submit that they came to know that since the revision petitioner has not filed her written statement, the trial Court has refused to permit the revision petitioner to adduce her side evidence. The learned counsel would submit that they are not particular about the filing of the written statement, since they have already filed a memo to treat the counter statement as written statement and that since the trial Court has refused to afford opportunity for adducing the first defendant's side evidence, they were forced to file the application to receive the written statement. Since the counter statement of the revision petitioner has already been ordered to be treated as the written statement, then she is certainly entitled to adduce her side evidence.

3.In view of the submission made by the revision petitioner that she is not particular about the filing of the written statement, the Civil Revision Petition is dismissed. But, at the same time, the trial Court is directed to afford opportunity for the first defendant to adduce her side evidence as she has already filed the written statement in the form of counter statement. Considering the fact that the suit is pending from the year 2009,

this Court is of the view that necessary direction is to be issued for early disposal of the suit.

4.In the result, the Civil Revision Petition is dismissed and the trial Court is directed to afford opportunity to the revision petitioner/first defendant to adduce her side evidence as she has already filed the written statement in the form of counter statement and complete the trial and dispose of the suit within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (W)

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/ /2021

Sub Assistant Registrar(CS)

rmk

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To

1.The Subordinate Judge,
Tuticorin.

Copy to:-

The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai.

made in
C.R.P.MD) .No.683 of 2021 and
CMP (MD) .No. 3757 of 2021

CN(18.05.2021) 3P 3C