



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2021

CORAM

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

C.R.P(MD).No.1152 of 2020 and

C.M.P(MD).No.7353 of 2020

1.P.Kannan

2.P.Meenakshi

3.S.Muthulakshmi

4.P.Malarkodi

5.K.Anandakumar

... Petitioners/ Petitioners/Defendants

Vs.

1.Santhanam

2.Kannan

3.Katturaja

4.Jeyapal @ Gopal

... Respondents /Respondents/Plaintiffs

**PRAYER:-** This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the Fair and Ex-order dated 02.03.2020 made in I.A.No.559 of 2019 in O.S.No.393 of 2010 on the file of the District Munsif Court, Thirumangalam and to allow the same.

For petitioners : M/s.K.Hemakarthiskeyan

**ORDER**

This Civil Revision Petition has been filed to set aside the Fair and Ex-order dated 02.03.2020 made in I.A.No.559 of 2019 in O.S.No.393 of 2010 on the file of the District Munsif Court, Thirumangalam and to allow the same.

2.The revision petitioners are the defendants and the respondents are plaintiffs in O.S.No.393 of 2010 on the file of the District Munsif Court, Thirumangalam. The suit is filed for declaration and for permanent injunction. Pending suit, the respondents/plaintiffs have filed an application for impleading the 5<sup>th</sup> petitioner herein as 5<sup>th</sup> defendant in the suit and the said application was allowed on 27.03.2018. Subsequently, the respondents/plaintiffs have filed an amendment plaint and the same was allowed. Thereafter, the petitioners 1 to 4/ defendants have filed an additional written statement in the suit, wherein, the 5<sup>th</sup> petitioner/5<sup>th</sup> defendant had filed a memo for adoption of the counter affidavit. In this circumstance, while filing an additional written statement, some particulars have been left out and therefore, the 5<sup>th</sup> petitioner/5<sup>th</sup> defendant while narrating some additional particulars, there was a delay in filing the additional written statement. Therefore, he filed an Interlocutory Application in I.A.No.559 of 2019 for condoning the delay in filing the Additional Written Statement. After hearing the case, the said I.A was dismissed by the Trial Court by order dated 02.03.2020, against which, the



petitioners/defendants have filed the present revision petition.

3.Learned counsel for the petitioners would submit that the 5<sup>th</sup> petitioner herein is a *bonafide* purchaser who purchased the suit property even prior to the suit and the petitioners 1 to 4 herein had omitted to state some facts and therefore, the 5<sup>th</sup> petitioner herein has filed I.A.No.559 of 2019 for condoning delay in filing the additional written statement. He further submitted that the trial is yet to commence and therefore, no prejudice will be caused to the respondents herein and there is no intention on the part of the petitioners herein to drag on the proceedings. Therefore, the learned counsel prays before this Court to set aside the Fair and Ex-order passed by the trial Court and allow this Civil Revision Petition.

4.Heard the learned counsel for the petitioners and perused the materials available on record.

5.Perusal of record shows that after impleading the 5<sup>th</sup> petitioner herein as 5<sup>th</sup> defendant in the suit, he filed an additional written statement by narrating some additional particulars where there was a delay in filing the additional written statement and therefore, he filed an application in I.A.No.559 of 2019 for condoning the delay in filing the additional written statement. After hearing the case, the learned District Munsif, Thirumangalam had dismissed the said I.A on the ground that the suit was posted on various dates for filing additional written statement, but, the 5<sup>th</sup> defendant failed to file the same and the application was belated one and there was no reason for delay. When the suit was posted for cross examination of the 1<sup>st</sup> plaintiff, the said I.A was filed only with an intention to drag on the proceedings and the additional written statement has to be filed within a period of 30 days from the date of amendment of the plaint where I do not find any infirmity.

6.In view of the above, this Court does not find any valid reason to interfere with the order passed by the learned District Munsif, Thirumangalam in I.A.No.559 of 2019 in O.S.No.393 of 2010, dated 02.03.2020 and hence, this petition is liable to be dismissed. Accordingly, this Civil Revision Petition is dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



msa

**NOTE:** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Munsif  
Thirumangalam

2.The Record Keeper,  
V.R. Section,  
Madurai Bench of Madras High Court,  
Madurai.(2c)

+1 CC to M/s.K.HEMA KARTHIKEYAN, Advocate ( SR-201[F] dated 06/01/2021 )

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