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CRP.No.3668 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Civil Revision Petition [PD] No.3668 of 2016

& C.M.P.Nos.18659 of 2016 & 1301 of 2017

1. Janardhanan @ Elumalai
 2. Jayamurugan Kounder
- ... Petitioners

..Vs..

1. N.Elumalai
 2. The Sub Registrar,
Sub Registrar Office,
Vanur Taluk, Villupuram District.
 3. Chandra
 4. Jayalakshmi
- ... Respondents

Prayer: Civil Revision Petition has been filed under 227 of Constitution of India challenging the Order and decreetal Order in I.A.No.275 of 2016 in O.S.No.118 of 2012 dated 17.10.2016 on the file of the District Munsif cum Judicial Magistrate at Vanur.

For petitioners : Mr.V.Raghavachari

For respondents : Mr.N.Subramani – R1
Mr.P.Harish –R2
R3 and R4 – No appearance



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ORDER

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Challenging the dismissal of the application filed seeking leave to file additional written statement in I.A.No.275 of 2016 in O.S.No.118 of 2012 dated 17.10.2016, the present revision has been filed.

2. The brief averments of the application filed by the petitioner is as follows :

The petitioners are the defendants in the main suit and they have filed this application seeking leave to file additional written statement. The petitioners have recently discovered the fact that the four boundaries of the suit property as mentioned in the plaint is that of another property comprised in Survey No.424/4 and the description of the suit property is therefore incorrect. Hence, the petitioners intend to raise this as an issue in the main suit by way of filing an additional written statement.

3. Denying the averments in the application, the contention of the respondents in their written submission is that the new plea taken in the original written statement is contradictory and inconsistent with the plea



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taken in the additional written statement. The petitioners have not pleaded any valid and acceptable reason for the delay occasioned in filing the additional written statement and when the suit has come to a close finding, the present application has been filed and hence, the same is liable to be dismissed.

4. After considering the submissions of both sides, the Court below dismissed the application against which the present revision has been filed.

5. The main contention of the petitioners is that to clarify the boundaries already raised in the original written statement and to demonstrate to the Court that the boundaries of the suit property do not tally with the description given in the plaint, they are seeking leave to file additional written statement. It is their further contention that the additional written statement can be filed at any stage if the same could comprehensively decide the lis between the parties.



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6. Admittedly, the present suit has been filed for declaration of the plaintiff's title to the property. The suit property was purchased by the wife of the plaintiff from the third defendant, who is the father of the second and third defendants, which was subsequently settled in favour of the plaintiff. The petitioners/defendants have filed the present application before the trial Court seeking leave to file an additional written statement in the order to clarify the boundaries of the suit properties stating that the boundaries stated in the plaintiff is incorrect and the said fact was found out by the petitioners recently, when he had gone through the title deeds and hence, they are unable to mention the same in their written statement. The plaintiff has filed the present suit for declaration of title and the defendants are disputing the boundaries of the suit property. In the said circumstances, to decide the lis between the parties and to clarify the boundaries of the suit property to arrive at a logical conclusion, the petitioners have to be permitted to file the additional written statement.



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7. Accordingly, this Civil Revision Petition is allowed.

Consequently, connected miscellaneous petitions are closed. No costs.

18.04.2022

vrc

Index:yes/no

Internet:yes

To

The District Munsif cum Judicial Magistrate,
Vanur.



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J.NISHA BANU, J.

vrc

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