



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P. (PD) No.2447 of 2022
& C.M.P.No.12655 of 2022

1.C.Sekar		
2.V.Chinnaswamy	...	Petitioners / Defendants

versus

1.Natarajan		
2.N.Karuppan	...	Respondents / Plaintiffs

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 08.12.2021 made in I.A.No.445 of 2021 in O.S.No.113 of 2019 pending on the file of the learned I Additional District Munsif, Virddhachalam.

For Petitioners : Mr.V.Ramamurthy

ORDER

This Civil Revision Petition has been preferred challenging the order of the learned I Additional District Munsif, Virddhachalam, dated 08.12.2021 made in I.A.No.445 of 2021 in O.S.No.113 of 2019.



2. The revision petitioners are the defendants in the suit against whom the respondents / plaintiffs had filed the suit for the reliefs of declaration, recovery of possession along with permanent injunction. During the pendency of the suit, this Interlocutory Application was filed by the petitioners / defendants to receive additional written statement and the said petition was dismissed. Aggrieved over that, the defendants have filed the present Civil Revision Petition.

3. The learned counsel for the revision petitioners submitted that the learned trial Judge had chosen to dismiss the petition only for the reason that the petition was filed at a belated stage after P.W.1's cross was over; only after the Commissioner had filed his report the petitioners came to know that the suit schedule property has not been properly described and there are differences in the boundaries; unless the petitioners are allowed to file additional written statement that will prejudice their defense; in the interest of justice the Court can receive the additional written statement at any stage of the suit and hence, the order of the learned trial Judge should be set aside.



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4. On perusal of the affidavit filed by the revision petitioners in support of their petition to receive additional written statement, it is seen that they wanted to make out certain points consequent to the facts revealed during cross examination of P.W.1 and only thereafter they got the advise to file additional written statement.

5. The above reasons stated by the petitioners in their affidavit would itself show that they just want to fill up the lacunae of their defense. Even the additional written statement had sought to be filed also does not disclose anything new but denial of the cause of action. Having filed the suit it is the plaintiffs who have to prove their entitlement to get the decree. If the plaintiffs had given a wrong description of the suit schedule property the risk goes to the plaintiffs. The defendants did not file any counter claim. They only stated that the case of the plaintiffs is not true and they had chosen to file this Civil Revision Petition only after the cross of P.W.1 was completed. In the guise of filing the additional written statement, the revision petitioners have also tried to raise objection to the Commissioner's report.



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6. The reasons stated by the revision petitioners to receive additional written statement is not acceptable and it is apparent that the additional written statement is filed is only to stultify the facts unearthed during the cross of P.W.1. The learned trial Judge had rightly appreciated the matter in issue and had chosen to dismiss the petition and it does not require any interference.

7. In view of the above stated reasons, this Civil Revision Petition is dismissed and the order dated 08.12.2021 passed by the learned I Additional District Munsif, Virddhachalam in I.A.No.445 of 2021 in O.S.No.113 of 2019 is hereby confirmed. Consequently, connected Miscellaneous Petition is closed. No costs.

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Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

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To

The I Additional District Munsif, Virddhachalam.

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R.N.MANJULA, J.

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