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C.R.P. No. 2450 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 2450 of 2019
and
C.M.P. No. 16014 of 2019

A.S.Periyasamy (died)

2. Rajammal,
W/o. Late A.S.Periyasamy

3. Varun,
S/o. Late A.S.Periyasamy

4. Bhuvaneswari,
W/o. Sundaram

(Petitioners 2 to 4 brought on record as
LRs of deceased sole petitioner viz.,
A.S.Periyasamy vide court order dated
02.08.2022 made in C.M.P.No.11741
of 2022)

... Petitioners

Versus

1. Indira Gandhi,
W/o. Chinnasamy

2. S.Sureshkumar,
S/o. Shanmugasundaram

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3. P.Ramasamy,
S/o. Perumal Gounder

4. A. Sundaramoorthy,
S/o. R.Arunachalam

5. Valliammal,
W/o. Late Nachimuthu gounder

... Respondents

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and final order passed in I.A.No.3 of 2019 in O.S.No. 475 of 2011 on the file of Principal District Munsif Court, Erode dated 25.06.2019.

For Petitioners : Mr.A.Sundaravadhanan

For Respondents : Mr. R.Karthikeyan for R4

R1, R2, R3 & R5 – No appearance

ORDER

The 1st Revision Petitioner is the plaintiff in the suit in O.S.No. 475 of 2011 on the file of learned Principal District Munsif, Erode, which was filed by him against the respondents/defendants for the relief of declaration and other consequential relief.



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2. The said suit was contested by the defendants by filing written statement. Thereafter, during the pendency of suit proceedings, the 4th defendant purchased the property. Hence, the necessity arose for the plaintiff to file a reply statement, thereby he has filed an application in I.A.No. 3 of 2019 under Sec.151 of C.P.C. to receive reply statement. But, the same was dismissed by the trial court stating that nearly about one year later from the date of filing the written statement, the plaintiff filed the said application. Challenging the said order, the plaintiff preferred this Civil Revision Petition.

3. The learned counsel appearing for Revision Petitioners submitted that the trial court failed to take note of the fact that since the 4th defendant was impleaded, who is a purchaser of the property during the pendency of the proceedings, the necessity arose for the plaintiff to file the reply statement due to subsequent development. If the opportunity is not given to him to prove his claim, his valuable right will be defeated. Hence, he prayed to set aside the order passed by the trial court.



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4. By way of reply, the learned counsel for 4th respondent submitted that only to drag on the proceedings, without assigning any reason, the plaintiff filed that application and the same was rightly dismissed by the trial court, which needs no interference. Hence, he prayed to dismiss this Civil Revision Petition.

5. Heard and considered rival submissions of learned counsel for revision petitioners as well as respondents and perused the records.

6. On considering the submissions of both sides as well as on perusal of records, it reveals that the suit was filed for the relief of declaration and other consequential relief. During the pendency of suit proceedings, the 4th defendant was impleaded, who is purchaser of property. Hence, the necessity arose for the plaintiff to file the said application praying the court to receive reply statement in I.A.No.3 of 2019, but the trial court, without appreciating the subsequent development, simply dismissed the application stating that it is belated one. But, on seeing the subsequent development,



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more particularly, the 4th defendant purchased the property during the pendency of proceedings. Hence, the necessity arose for the plaintiff to file a reply statement. If an opportunity is not given to the plaintiff to prove his claim, his valuable right before the trial court will be defeated. Therefore, the findings given by the trial judge is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the order passed by the trial court in I.A.No.3 of 2019 is set aside. The trial court is directed to receive reply statement of plaintiff and liberty is granted to the defendants to file their additional written statement, if any. However, since the suit is pending from the year of 2011, the trial court is directed to dispose the case within a period of six months on merits from the date of receipt of copy of this order. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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To

Principal District Munsif,
Erode.

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T.V.THAMILSELVI, J.

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