



CRP. Nos.2827 and 2828 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP. Nos.2827 and 2828 of 2019

1.V.L.Kumar
2.V.V.Ramani
3.V.V.Hemalatha

...Petitioners/Defendants 1 to 3

Vs.

R.Rajaram

....Respondent/Plaintiff

PRAYER in CRP No. 2827 of 2019: This Civil Revision Petition is filed under Section 115 of CPC prayed to set aside the order and decreetal order passed in I.A No.1 of 2019 in O.S No.36 of 2016 dated 01.08.2019 on the file of learned District Munisif Court at Thiruvottriyur.

PRAYER in CRP No. 2828 of 2019: This Civil Revision Petition is filed under Section 115 of CPC prayed to set aside the order and decreetal order passed in I.A No.2 of 2019 in O.S No.36 of 2016 dated 01.08.2019 on the file of learned District Munisif Court at Thiruvottriyur.



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For Petitioner : Mr.R.Raman Lal

(In both C.R.P)

For Respondent : Mr.G.Thangavel

(In both C.R.P)

COMMON ORDER

These Civil Revision petitions have been filed to set aside the order and decretal order passed in I.A No.1 of 2019 and I.A No. 2 of 2019 in O.S No.36 of 2016 dated 01.08.2019 on the file of learned District Munsif Court at Thiruottiyur.

2. The Revision petitioners herein are the defendants in Suit O. S No. 36 of 2016 on the file of the District Munsif, Thiruvottiyur which was filed by the plaintiff for the relief of redeem the mortgage dated 28.01.1997 and for other consequential relief. The said suit was contested by the defendants by submitting the written documents with regard to transaction between them. According to petitioners they found typographical error on page No.5 and 6, paragraph No.24, that while filing written statement instead of mention as 31.10.2002 wrongly mentioned as 31.02.2002. it is typographical error to that effect he already filed application on 30.01.2019 to amend the written statement but the junior counsel



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who followed the case was passed away and the petitioner counsel entrusted the matter to another junior counsel. Then he came to know that application for amendment was not numbered and returned on 11.02.2019 and had no knowledge about that. Thereafter the issue was framed and the Trial Was commenced P.W.1 has already been cross examined by the respondent/petitioner herein. In the meantime, defendants evidence was closed and same was posted for arguments after hearing arguments on the side of the respondent the matter was reserved for judgements. Thereafter, the petitioner herein filed I.A No.1 and 2 of 2019 to amend the said date in the written statement on considering both side arguments the Trial Court dismissed the the above said applications.

3. Challenging the said findings the defendants preferred this Civil Revision petition.

4. The learned counsel for the petitioner submitted that the during the filing of the written statement in that he mentioned number of the document including copy of pro note said to be executed by the plaintiff dated 31.02.2002 but the said statement filed in the year 2016 itself but in the pleadings of the written statement date was wrongly mentioned as 31.02.2002 instead of 31.10.2002. Now he want to amend the date as 31.10.2002 having valid reason but the application was erroneously dismissed by the Trial Court. Hence, he prays to allow this Civil Revision Petiion.



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5. The learned counsel for the respondent submitted in order to drag on the proceedings defendant filed this petition. Furthermore he denied that he has not executed any document on the alleged date of 31.10.2002.

6. On considering the rival submissions, the petitioner filed application I.A NO. 1 of 2019 in O.S No. 36 of 2016 to amend date of pro note in the written statement, in which the defendants wrongly mentioned the date of pronote as 31.02.2002 instead of 31.10.2002. Further in another I. A No. 2 of 2019 in O.s No. 36 of 2016 the petitioner want to reopen the petitioner side evidence in both the I.A the trial Court dismissed the applications for the reason that the matte was reserved for judgment. The petitioner already taken stepst to amend that written statement in the year of 2019, moreover he also mentioned the date of pro note as 31.10.2002 while mentioning the documents he relied on the back side of the written statement schedule of documents. Hence he has not invented new things, by inadvertently the date of pro note was mentioned as 31.02.2002. Even before Trial he took all efforts to correct the said date. This Court is of the view that one must be given fair opportunity to proceed his Trial. Hence, the order passed by the Trial Court in I.A No. 1 of 2019 and I.A No. 2 of 2019 in O.S No. .36 of 2016 is hereby setaside. Further, the Trial Court to dispose the Case within three monthsf from the date of receipt of a copy of this order.



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7. In the result, the Civil Revision Petition is allowed. There shall be
no order as to costs.

31.10.2022

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To

1. The District Munsif Court, Thiruottiyur.



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T.V.THAMILSELVI,J.

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