



C.R.P. No. 3539 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 10.10.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 3539 of 2017

and

C.M.P. No. 16367 of 2017

1. Premalatha,
W/o. Natesan

2. Natesan,
S/o. Palaniappa Gounder

... Petitioners

Versus

1. Chinnaiya Thiyagarajan,
S/o. Marappa Gounder

2. Maheswari,
W/o. Elango

3. Sri Mariamman Siru Vivasayigal Neertru
Pasana Sangam, by its President,
E.Samiappan

... Respondents

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order dated 31.08.2017 passed in I.A.No. 186 of 2017 in O.S.No. 171 of 2011 on the file of Sessions Court (Fast Track Mahila) Judge, Namakkal.



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For Petitioners : Mr.M.Premkumar for
Mr.S.Senthil

For Respondents : Mr. T.Padmanabhan for
Mr.S.Kalyanaraman for R1

R2 & R3 – No appearance

ORDER

The Revision Petitioners are the plaintiffs in the suit in O.S.No. 171 of 2011 on the file of learned Sessions (Fast Track Mahila) Judge, Namakkal, which was filed for the relief of declaration and other consequential relief against the defendants.

2. During the pendency of suit proceedings, the plaintiffs filed an application in I.A.No. 186 of 2017 under Order 8 Rule 9 of C.P.C. to receive reply statement and the same was dismissed by the trial judge stating that the case was posted for cross-examination of P.W.1. Challenging the said findings, the plaintiffs 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 for denial of allegation, the plaintiffs are entitled to file their reply statement, however, the trial was



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begin and hence, immediately, they took steps, but the same was not appreciated by the trial court. Hence, he prayed to set aside the order passed by the trial court.

4. The learned counsel for respondents have raised their objections and 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 proof affidavit of P.W.1 was filed on 17.06.2017, at that time, the plaintiffs have rightly filed the application to receive their reply statement with regard to denial of allegations made by the 3rd respondent in his written statement. Furthermore, the plaintiffs filed the suit for declaration and other consequential relief. So, to prove their title over the property, the plaintiffs are entitled to raise all their defence in the suit by way of filing reply statement. However, they have filed the said application



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at the time of cross-examination of P.W.1, but at the same time, they have to defend their claim. Therefore, the reasons assigned by the trial judge is unjustifiable one and the order passed in I.A.No.186 of 2017 by the trial court is set aside. Accordingly, this Civil Revision Petition is allowed. The revision petitioners/plaintiffs are directed to file their reply statement and thereafter, the trial court is directed to dispose the case within a period of three months on merits from the date of receipt of copy of this order because the suit is pending from the year of 2011 onwards. Both the parties are directed to cooperate with the trial proceedings before the trial court. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

10.10.2022

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

Sessions (Fast Track Mahila) Judge,
Namakkal.



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T.V.THAMILSELVI, J.

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