



C.R.P. No. 3918 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 3918 of 2017
and
C.M.P. No. 18321 of 2017

Marimuthu,
S/o. Velayutham

... Petitioner

Versus

1. Anjalai,
W/o. Veeramuthu
2. Rajangam,
S/o. Late Ayyakannu
3. Thangavel,
S/o. Late Ayyakannu

... Respondents

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order dated 07.06.2017 made in I.A.No.422 of 2016 in O.S.No. 437 of 2007 on the file of learned I Addl. District Munsif, Vridhachalam, Cuddalore Dt.



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For Petitioner : Mr.S.Senthilnathan

For Respondents : Mr.J.Antony Jesus for R1

R2 and R3 – no appearance

ORDER

The Revision Petitioner is the 1st defendant in the suit in O.S.No. 437 of 2007 on the file of I Addl. District Munsif, Vridhachalam, which was filed by the 1st respondent/plaintiff for the relief of declaration and other consequential relief with regard to channel era.

2. The 1st defendant filed his written statement in the year of 2012. Thereafter, the amendment was made by the 1st respondent/plaintiff stating that 1st defendant filed his additional written statement in the year of 2016. Hence, the revision petitioner filed an application in I.A.No.422 of 2016 under Order 8 Rule 9 of C.P.C. before the trial court to receive additional written statement and the said application was dismissed by the trial court stating that in order to prolong the proceedings, he filed this application belatedly, nearly about 4 years after filing of original written statement by



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the 1st defendant and he attempted to take contradictory pleas. Challenging the said order, the 1st defendant preferred this Civil Revision Petition.

3. At the time of argument, the learned counsel for revision petitioner submitted that the trial court failed to take note of the fact that the 1st defendant is entitled to raise all his defence before the trial court, more particularly, he must be given an opportunity to defend his case after the amendment made by the plaintiff.

4. By way of reply, the learned counsel appearing for 1st respondent raised objections stating that nearly about 4 years from the date of filing original written statement, in order to drag on the proceedings, and when the trial was begin, he has filed this application and the same was rightly dismissed by the trial court, which needs no interference.

5. Heard and considered rival submissions made by learned counsel for revision petitioner as well as 1st respondent and perused the records.



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6. Considering the submissions of both sides and on perusal of records, it reveals that with regard to channel era, the dispute is pending between the parties, and a suit for declaration was filed by the 1st respondent/plaintiff, in which, the 1st defendant filed his written statement in the year of 2012, thereafter, the amendment was made by the plaintiff. Hence, the 1st defendant wanted to file his additional written statement, but the same was not permitted by the trial court stating that after four years of delay, he approached the court, however, even though there is a delay on the part of 1st defendant, on seeing the relief claimed in the suit, the 1st defendant is to be given an opportunity to defend his case, because the trial court is the fact finding court, before which, the parties have to extract all their remedies. Therefore, in order to avoid multiplicity of proceedings, this Court is inclined to allow this Civil Revision Petition and to set aside the order passed by the trial court in I.A.No. 442 of 2016. Accordingly, this Civil Revision Petition is allowed. The revision/petitioner 1st defendant is permitted to file his additional written statement and liberty is granted to the 1st respondent/plaintiff to file her reply statement to the additional written statement. However, since the suit is pending from the year of 2007, the trial



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court is directed to dispose the case within a period of six months 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
rpp

To

I Addl. District Munsif,
Vridhachalam.



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T.V.THAMILSELVI, J.

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