



C.R.P (MD) No. 2258 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 11.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

C.R.P(MD)No.2258 of 2022 and
CMP(MD) No.10608 of 2022

1.Janakiraman
2.V.Saravanan Babu

... Petitioners

Vs

N.Ramani Kanthammal (Died)

1.N.Sugumar
2.N.Muralidharan
3.Chitra
Manorama (Died)
4.J.Janarthanan
5.Sujithra
6.N.Saravanakumar
7.N.Sivakumar
8.M.R.Durairaj
9.R.Muthukrishnan
10.S.Ravi

11.Minor R.Dharmaraj

(Minor 11th respondent is represented through his father and guardian,
namely the 12th respondent)

12.Jothi Nageswaran



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13.J.Vasanthi

14.J.Rajaram

R.V.Rengaraj (Died)

15.Gouri (Exonerated)

... Respondents

(Respondents 12 to 15 are not contesting parties, hence, notice on them may be dispensed with)

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.155 of 2019 in O.S.No.20 of 2014, on the file of the Additional District Court (Fast Track Court), Palani, dated 17.09.2020.

For Petitioners	: Mr.V.S.Kishok Kumar
For Respondents	: Mr.M.Murugan

ORDER

This Civil Revision Petition is filed as against the order passed by the learned Additional District Munsif, Palani in I.A.No.155 of 2019 in O.S.No.20 of 2014, dated 17.09.2020.

2.The respondents/plaintiffs filed a suit in O.S.No.20 of 2014 for the relief of declaration and for injunction as against these petitioners



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and 17 others. The petitioners/defendants 2 & 6 failed to file their written statements within the stipulated period of 90 days and therefore, they were set exparte by the trial Court on 05.04.2019. The petitioners/defendants 2 & 6 have filed an applications in I.A.Nos.59 & 56 of 2019 respectively to set aside the exparte order, within the stipulated time in and the same was allowed by the trial Court on 05.09.2019. The trial Court has also permitted the defendants 2 & 6 to file their written statements. The written statements filed by them were also taken on file. Now, by way of an interlocutory application in I.A.No. 155 of 2019, the respondents/plaintiffs filed an application stating that the written statements have been filed after the period of 90 days and hence the same has to be rejected. The trial Court allowed the application and rejected the written statements. Aggrieved over the same, the present Civil Revision Petition is filed by the defendants 2 & 6.

3.The learned counsel appearing for the petitioners submits



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that since these petitioners have not filed their written statements, the trial Court set them ex parte and ex parte order was also passed on 05.04.2019. To set aside the ex parte order, the petitioners filed necessary applications and the trial Court has also allowed the same, pursuant to which, the petitioners/defendants have filed their written statements. Now, on the application filed by the plaintiffs, the trial Court rejected the written statements, which is not proper. According to the learned counsel for the petitioners, 90 days prescribed by the statute is only directory and not mandatory. Hence, the order of the trial Court rejecting the written statements has to be set aside.

4.The learned counsel appearing for the respondents/plaintiffs submits that the petitioners/defendants have purposely evaded from filing their written statements only to drag on the proceedings and hence the trial Court has rightly rejected the written statements filed by them. Hence, there is no need to interfere with the



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order of the trial Court.

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5. This Court considered the rival submissions made and also perused the materials placed on record.

6. For non-filing of written statements, the petitioners, who are the defendants 2 & 6 were set exparte on 05.04.2019 and on application filed by them, exparte order was set aside by the trial Court by its order dated 05.09.2019 and the petitioners were also permitted to file their written statements. Thereafter, on the application filed by the respondents/plaintiffs, the written statements filed by the petitioners/defendants 2 & 6 were rejected. It is to be noted that the exparte order passed by the trial Court was not challenged by the respondents/plaintiffs. Moreover, the period prescribed for filing the written statement is only directory and not mandatory.



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7. In view of the above, this Civil Revision Petition is allowed. The order of the trial Court in I.A.No.155 of 2019 in O.S.No.20 of 2014, dated 17.09.2020, rejecting the written statements of the defendants 2 & 6 is set aside. The trial Court shall permit the defendants 2 & 6 to file their written statements and shall endeavour to dispose of the suit at the earliest.

8. With the above direction, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

11.11.2022

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To

The Additional District Court (Fast Track Court), Palani



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B.PUGALENDHI, J.

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