



CRP(MD)No.2084 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP (MD) No.2084 of 2019
and
CMP (MD) No.10857 of 2019

1.AR.Ramasamy
2.RM.Arumugam
3.RM.Rajendiran
4.RM.Venkatachalam : Petitioners

Vs.

1.AR.Azhagappan
2.AR.Mani
3.So.Arumugam @ Sekar
4.Cho.Subramanian
5.Meenakshi
6.Cho.Vallikannu
7.Meenal
8.Thenammai



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9.Pasupatham

10.Nataraj @ Arumugam

: Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records relating to the fair and decreetal order dated 23.09.2019, made in I.A.No.2 of 2019 in O.S.No.102 of 2014, on the file of the Sub Court, Devakottai and set aside the same.

For Petitioners : Mr.K.K.Senthilvelan

For Respondents : Mr.V.R.Shanmuganathan
for R.1

No appearance
for R.2 to R.10

ORDER

The petitioners are defendants 1, 7, 8 & 9 in the suit in O.S.No.102 of 2014 and they filed the present revision petition as against the fair and decreetal order dated 23.09.2019 passed by the learned Subordinate Judge, Devakottai, in I.A.No.2 of 2019 in O.S.No.102 of 2014.



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2.The said interlocutory application was filed by the first respondent / plaintiff for receiving his reply statement under Order 8 Rule 9 CPC. The said application was allowed by the trial Court, vide order dated 23.09.2019 and as against the same, the present revision petition is filed.

3.Learned Counsel for the petitioner submitted that the suit was filed in the year 2014 and the defendants filed their written statements as early as on 15.10.2015 itself. However, the plaintiff has filed I.A.No.2 of 2019 under Order 8 Rule 9 CPC to accept the reply statement only on 28.02.2019 and that too, when the case was posted for the cross examination of PW2. The trial Court has mechanically allowed the application without considering the delay with which the application was filed and therefore, the same is liable to be set aside.



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4.Learned Counsel for the first respondent / plaintiff submitted that the first respondent is the brother of the petitioners and he is aged about 87 years. The suit was filed for partition and the petitioners / defendants have filed their written statements on 15.10.2015. Immediately, the first respondent has filed his reply statement on 06.11.2015 itself, however, without an application under Order 8 Rule 9 CPC and the leave of the Court. The same was detected only at the time of cross examination of PW2 and immediately, the application was filed on 28.02.2019 seeking the leave of the Court to have the reply affidavit, which was already on file, under Order 8 Rule 9 CPC. The trial Court considering the fact that the reply statement dated 15.10.2015 was filed immediately after the filing of the written statements, allowed the application and granted leave.

5.Considering the rival submissions made by the learned Counsel on either side and considering the fact



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that the reply statement was filed as early as on 15.10.2015 immediately after the filing of written statements by the petitioners / defendants and the present interlocutory application was filed only to obtain the leave of the Court, this Court is not inclined to entertain this revision petition.

Accordingly, this civil revision petition stands dismissed. Considering the age of the proceedings, the learned Subordinate Judge, Devakottai, shall endeavor to expedite the trial and shall dispose of the same, as expeditiously as possible, preferably within a period of five months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition stands closed.

Index : Yes / No
Internet : Yes
gk

15.11.2022

To

The Subordinate Judge,
Devakottai.

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B . PUGALENDHI , J .

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