



CRP (MD) No.1524 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 13.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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S.Raju		... Petitioner
	Vs	
J.Murali		... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 23.06.2017 made in IA.No.95 of 2017 in OS.No.54 of 2014 on the file of the Additional Subordinate Judge, Kumbakonam and allow this civil revision petition.

For Petitioners : Mr.G.Mohankumar

For Respondent : Mr.Ramakrishnan

ORDER

The petitioner is the defendant in OS.No.54 of 2014. He filed an interlocutory application in IA.No.95 of 2017 to permit him to file additional written statement. The said application was dismissed by the trial Court. Aggrieved over the same, the present civil revision petition is filed.



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2.The learned Counsel for the petitioner submits that the respondent / plaintiff has purchased the property from a trust without obtaining permission from the HR&CE department and therefore, according to the learned Counsel, the respondent / plaintiff cannot maintain the suit itself for recovery of the possession and therefore, the petitioner intended to file additional written statement and however, the application was dismissed by the trial Court.

3.The learned Counsel for the respondent submits that the respondent / plaintiff has purchased the property only by the orders of the District Judge, Kumbakonam in the application filed by the trust. The petitioner / tenant cannot question the ownership of the landlord and this order of the District Judge, Kumbakonam permitting the trust to sell the property to the respondent has not been challenged in the manner known to law.



4. The suit was filed in the year 2014 and pleadings have been completed and the case was posted for cross examination of PW1. It appears that this attempt is also made to drag on the proceedings, when the suit is at the stage of trial and the petitioner / tenant intended to file an additional written statement that the respondent/ plaintiff has no locus to maintain the suit that he has not purchased the property with valid permission from the HR&CE department. However, the fact remains that permission was granted by the District Court and the same is not challenged. The trial Court while dismissing the application has left open the issue as follows:

"The other point with regard to the validity of issuance of the notice under Section 106 was already raised in the main written statement itself by the petitioner/ defendant. It is well settled law the relevant incidental points touching question of law coupled with question of facts regarding the matter in dispute in connection with the facts in issue can be raised before the Court even during the proceedings in view of the Indian Evidence Act."



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5. In view of the above, this Court is not inclined to interfere with the orders of the trial Court and it is always open to the petitioner to raise all the points at the time of arguments and the trial court shall endeavour to conclude the trial as expeditiously as possible, preferably within a period of five months from the date of receipt of copy of this order. No costs.

6. The civil revision petition is disposed of on the above terms. No costs.

13.12.2022

dsk

To

The Additional Subordinate Judge,
Kumbakonam.



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B. PUGALENDHI, J.

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