



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2022

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THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

C.R.P (MD)No.1905 of 2017

and

C.M.P (MD)No.9840 of 2017

Balumanikumar

.. Petitioner /
Defendant

Vs.

Chenthil

.. Respondent /
Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 23.06.2017 made in I.A.No.106 of 2017 in O.S.No.546 of 2010 by the Second Additional District Munsif Court, Kuzhithurai.

For Petitioner : Mr.T.Wins

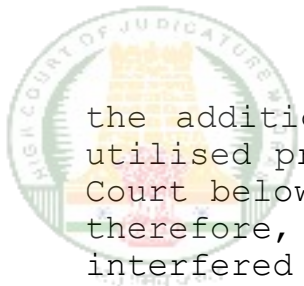
For Respondent : Mr.C.Kishore

ORDER

This Civil Revision Petition was filed by the petitioner challenging the order passed by the Court below in I.A.No.106 of 2017 in O.S.No.546 of 2010, dated 23.06.2017. The said interlocutory application was filed by the petitioner / defendant seeking to receive the additional written statement filed along with the application.

2.The case of the revision petitioner is that the suit was originally filed by the respondent / plaintiff, for the relief of permanent injunction. Subsequently, after a period of four years, the respondent / plaintiff amended the plaint with the prayer for declaration. Therefore, the petitioner / defendant has to file an additional written statement. However, no opportunity was given. He further submitted that the order passed by the Court below is not proper and the same is liable to be set aside.

3.On the other hand, the learned counsel for the respondent / plaintiff would submit that the Court below after amending the plaint, has given many opportunities to the petitioner for filing



the additional written statement. However, the same has not been utilised properly by the petitioner and that is the reason why, the Court below has rejected the application filed by the petitioner and therefore, the order passed by the Court below need not be interfered with.

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4. Upon hearing the learned counsel appearing on either side and also perusing the materials available on record, it appears that the plaint was amended with the prayer for declaration. No doubt, an opportunity needs to be given to the petitioner / defendant to file additional written statement. It is not anybody's case that opportunity was not at all provided to the petitioner / defendant for filing additional written statement. On the other hand, the Court below has given number of opportunities to the petitioner for filing additional written statement. However, the same has not been utilised by the petitioner. Under these circumstances, the petitioner has filed the present interlocutory application to receive the additional written statement. This Court is of the view that even though the petitioner has not filed the additional written statement, inspite of number of opportunities provided by the Court below, in the interest of justice and also for fair adjudication, it is just and necessary to permit the petitioner / defendant to file the additional written statement, but on terms. Accordingly, the order passed by the Court below dated 23.06.2017 in I.A.No.106 of 2017 in O.S.No.546 of 2010 is set aside and the petitioner / defendant is permitted to file the additional written statement subject to the payment of cost of Rs.3,000/- [Rupees three thousand only] to the learned counsel for the respondent herein, within a period of two weeks from the date of receipt of a copy of this order.

5. This Civil Revision Petition is allowed on the above terms. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

smn

To

1. The Second Additional District Munsif,
Kuzhithurai.



2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to M/s.C.KISHORE, Advocate (SR-10864[F] dated 09/03/2022)

C.R.P (MD) No.1905 of 2017
09.03.2022

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