



WEB COPY



CRP.No.422 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2023

CORAM:

THE HONOURABLE MRS.JUSTICE **T.V.THAMILSELVI**

CRP.No.422 of 2022
and C.M.P.No.2163 of 2022

Narayanan

... Petitioner

Vs.

Latha @ Hemalatha

... Respondent

PRAYER: Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the order and decretal order dated 17.12.2021, passed in I.A.No.440 of 2019 in O.S.No.596 of 2016 on the file of the Additional District Munsif at Alandur by allowing the Civil Revision Petition.

For Petitioner : Mr.S.Ruban Prabu

For Respondent : No appearance

ORDER

Challenging the order dated 17.12.2021 passed by the learned Additional District Munsif, Alandur, in I.A.No.440 of 2019 in O.S.No.596 of 2016, the defendant preferred this revision petition.



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2. Before the trial Court, the defendant/petitioner filed an application in IA.No.440 of 2019 to receive additional written statement. The said application was objected by the plaintiff/respondent stating that after filing the proof affidavit on the side of the plaintiff, belatedly the said application was filed and prayed to dismiss the application. The trial Judge dismissed the application and challenging the said order the present revision petition.

3. The learned counsel appearing for the petitioner/defendant submits that he filed the additional written statement in the year 2019 viz., before commencement of trial. The trial Judge erroneously dismissed the said application by holding that after five years to fill up lacuna, he filed the application as it is totally incorrect.

4. Heard the learned counsel appearing for the petitioner. The notice served on the respondent is returned as unclaimed. Though his name also printed in the cause list, no representation for the respondent.

5. On perusal of records reveals that in the year 2019, the petitioner/defendant filed application to receive additional written statement and the same was not disposed of and it was kept pending. When the trial was



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progressed in the year 2021, the trial Judge dismissed the application by stating that to fill up lacuna, this application has been filed. In fact, before commencement of trial, the petitioner approached the Court seeking permission to file additional written statement and triable issues with regard to subject property also discussed in that additional written statement. If the opportunity was not given to file additional written statement and to raise such defense, the defendant will be put much hardship. Therefore, the reason assigned by the trial Judge must be set aside, because before commencement of trial, the petitioner/defendant filed the application to receive additional written statement.

6. Accordingly, the impugned order dated 17.12.2021 passed by the learned Additional District Munsif, Alandur, in I.A.No.440 of 2019 in O.S.No.596 of 2016, is hereby set aside. The liberty is given to the plaintiff/respondent to file reply statement to the additional written statement. The trial Judge viz., learned Additional District Munsif, Alandur, is directed to dispose the suit as early as possible.



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7. With the above directions, this Civil Revision Petition is allowed.

Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

28.03.2023

Index : Yes/No

Internet : Yes/No

Speaking order/non-speaking order

rts

To

The Additional District Munsif,
Alandur.



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T.V.THAMILSELVI, J.

rts

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