



C.R.P.No.837 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 06.04.2023

Delivered On: 28.04.2023

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

C.R.P.No.837 of 2020

and

C.M.P.No.4458 of 2020

1.V.Muthusamy

2.V.Subramani

... Petitioners/Respondents/Plaintiffs

Vs.

1.V.Muthusamy

2.P.Selvaraj

3.M.Senthilkumar

4.N.Nagarajan

5.C.Sengoda Gounder

6.V.Murugesan

7.M.Barathkumar

8.V.Sankar Ganesh

... Respondents/Petitioners/Defendants

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 08.01.2020 made in I.A.No.2 of 2019 in O.S.No.25 of 2015 on the file of the Principal District Munsif, Tiruchengode.



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For Petitioners : Mrs.R.A.Monalisha
for Mr.R.Mudhachalamurthy

For Respondents 1 to 8 : Mr.Malola Narasimhan
for Mr.K.Vijaya Ragavan

ORDER

The Civil Revision Petition has been filed by Petitioners, as Plaintiffs in O.S.No.25 of 2015 on the file of the learned Principal District Munsif, Tiruchengode, seeking to set aside the fair and decretal order dated 08.01.2020 made in I.A.No.2 of 2019 in O.S.No.25 of 2015 on the file of the Principal District Munsif, Tiruchengode.

2.The brief facts, that are necessary for disposal of this case, are as follows:-

2.1.The suit was filed seeking permanent injunction against the Defendants 1 to 12. The Defendants 1 to 8 are private parties, 9th Defendant is the District Collector, Namakkal, 10th Defendant is Tahsildar, Tiruchengode, 11th Defendant is Block Development Officer, Tiruchengode Union, Tiruchengode, 12th Defendant is the Special Officer, Devannankurichi Panchayat. The Defendants had filed written statement.



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The issues were framed in the suit and trial commenced. The first Plaintiff had examined himself as P.W.1. When the case was posted for cross-examination, the Defendants 1 to 8 in the suit had preferred I.A.No.2 of 2019 in O.S.No.25 of 2015 seeking permission of the Court to file additional written statement. The Plaintiffs as Respondents had filed counter objecting to the petition filed by the Defendants 1 to 8 under Order VIII, Rule 9 of CPC along with Section 151 of CPC. After hearing of the enquiry, the learned Principal District Munsif, Tiruchengode had allowed the petition in I.A.No.2 of 2019 in O.S.No.25 of 2015 filed by the Defendants 1 to 8 under Order VIII, Rule 9 r/w Section 151 of CPC seeking permission of the Court to file additional written statement as per order dated 08.01.2020.

2.2. In the order passed by the learned Principal District Munsif, Tiruchengode, it is stated that P.W.1 was examined on 10.08.2019. The Plaintiffs had filed an affidavit as examination-in-chief and marked documents as Ex.A1 to Ex.14. At that stage, on 18.09.2019, the Plaintiffs had filed the petition under Order VI, Rule 17 CPC and numbered as I.A.No.1 of 2019 which was allowed on 30.09.2019. Based on which, the Plaint was amended. Subsequent to the amendment of the plaint, on



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07.11.2019, the Defendants 1 to 8 had filed the petition in I.A.No.2 of 2019 in O.S.No.25 of 2015 seeking to file additional written statement under Order VIII, Rule 9 of CPC. Therefore, the petition is to be allowed.

2.3.The learned Counsel for the Defendants before the Trial Court had relied upon the rulings of this Court in the case of ***V.R.Sundararajan Vs D.Neelaveni*** and the learned Counsel for the Plaintiffs before the Trial Court had relied on the rulings of this Court (Madurai Bench) in the case of ***M.Devi and another Vs D.Soodamani and others*** and seeks to dismiss the petition.

2.4.On consideration of the rival submissions, the learned Principal District Munsif had allowed the petition on payment of cost of Rs.1000/-. It is the contention of the Petitioners that the Defendants before the Trial Court that after changing of the Counsel only, they came to know that the earlier Counsel had left out certain details in the written statement by inadvertence. Only after the new Counsel was engaged by the Defendants 1 to 8 he had perused the written statement and discussed the subject matter with his clients, Defendants 1 to 8 had come to know that vital materials had



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been left out in the written statement.

2.5. The Plaintiffs as Revision Petitioners objected to the order allowing the I.A.2 of 2019. Therefore, they have come before this Court by filing this Civil Revision Petition seeking to set aside the order allowing I.A.No.2 of 2019 in O.S.No.25 of 2015, thereby, granting permission to the Defendants to file additional written statement at the stage of P.W.1 cross.

3. The learned Counsel for the Revision Petitioners would submit that the suit is of the year 2015. The written statement had been filed by the 9th and 10th Defendants on 24.08.2015. The 11th and 12th Defendants had filed written statement on the same day and Defendants 1 to 8 had filed their written statement on 11.04.2016. Issues were framed after three years. After issues were framed, after P.W.1 was examined and was about to be cross-examined, after 4 years of the filing of the written statement, the Defendants 1 to 8 had filed this petition under Order VIII, Rule 9 of CPC r/w Section 151 of CPC seeking permission of the Court to file additional written statement on the ground that they had changed their earlier Counsel, the new Counsel had discussed the contents of the written statement and had



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immediately filed petition seeking permission of the Court to file additional written statement.

4. It is the contention of the learned Counsel for the Revision Petitioners/Plaintiffs before the Trial Court that this is a petition filed belatedly. The petition of such nature can be filed within one month after filing of the written statement and not after 4 years. Therefore, allowing the I.A.No.2 of 2019 in O.S.No.25 of 2015 is to be set aside.

5. The learned Counsel for the Defendants as Respondents herein objected to the line of arguments of the learned Counsel for the Revision Petitioners stating that the Plaintiffs had filed petition to amend the plaint. That petition was allowed. Only subsequent to that, the Defendants had sought permission of the Court to file additional written statement. Also after change of Counsel by the Defendants, the new Counsel had perused the records and advised the Defendants that the Defendants had to file additional written statement to meet out the Plaintiffs' case effectively as certain vital aspects had not been stated in the written statement earlier. Therefore, the order passed by the learned Principal District Munsif,



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Tiruchengode allowing I.A.No.2 of 2019 in O.S.No.25 of 2015 is a well reasoned order and it does not warrant any interference.

6. The learned Counsel for the Revision Petitioners has placed reliance on the rulings reported in **MANU/TN/4656/2022** in the case of **Kuppammal and Others Vs Reghuvelan and Others** wherein the relevant portion is extracted hereunder:-

“9. In the order passed by the learned District Munsif, Nagapattinam itself it is observed that the additional written statement should be in such a way that new case should not be created and it must be in nature of clarifying the units already stated in the original written statement. It is clear that the plea raised in the additional written statements are contrary to the plea made in the original written statements. There is also inordinate delay in filing the additional written statements along with the application to receive the same. The suit is of the year 2010 and the issues were framed in the year 2011. The suit was taken up for trial on 09.02.2015 and on the side of Plaintiff three(3) witnesses have been examined, subsequent to that only the Revision Petitioner herein has filed the applications in I.A.Nos.326 to 328 of 2016 for filing additional written statements. Since the issues were framed in the year 2011, the revision petitioner/1st Defendant should have been ready to conduct the case by filing of necessary pleadings whichever is necessary for conducting the suit but in the present



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case, the revision petitioner/1st defendant has filed the application exactly after one year from the date on which the witnesses have been examined and the time was sought on behalf of the 1st defendant for examining the witnesses”.

7. He also placed reliance on the rulings reported in **MANU/TN/0601/2023** in the case of **Muthusamy and Others Vs Vinayathan** wherein the relevant portions are extracted hereunder:-

“7. The parties inadvertently omitting certain documents or points in the Suit may avail of the opportunity in the Appeal Suit if required. Contrarily any of the party to the Suit cannot be allowed to develop their case stage by stage, by filing Interlocutory Application after Interlocutory Application, which would prolong and protract the Suit proceedings and impermissible under the Code of Civil Procedure. Once the pleadings are completed and trial commenced, Court shall not permit any additional pleadings or otherwise, which is not permitted under the Code of Civil Procedure and in the event of any commission or omission by any of the parties they are solely responsible and such omission or commission may be filled up by them by way of an Appeal Suit, which is continuation of Suit, wherein, Court contemplates further opportunity to file additional documents or for the evidence. Thus, the civil revision petition under Article 227 of the Constitution of India cannot be entertained by the High Court for the purpose of dealing with such orders passed by the Trial Courts declining permission to any of the party of the Suit for



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granting permission to file an additional written statement”.

“8.The scope of Article 227 cannot be expanded for the purpose of adjudication of such issues on merits in civil revision petition. When there is a regular Appeal available against the judgement and decree passed in a Suit and in the Appeal Suit parties are provided with further opportunity to adduce evidence or file additional documents, the power of High Court under Article 227 need not be exercised for the purpose of allowing the parties to develop their case at every stage and more so, after the commencement of trial in the Original Suit”.

“12. Prolongation and protraction of Suits for years together at no circumstances be encouraged by the Courts. Adjournment is an exception, Court cannot grant adjournments in a routine manner and long adjournments are also to be avoided. Any party seeking adjournment on flimsy grounds is to be rejected at the threshold and genuine adjournments are to be granted only by recording reasons. In the event of filing Interlocutory Application on frivolous grounds, those applications are to be disposed of as expeditiously as possible and by imposing maximum cost. At the outset no party shall be permitted to drag on the proceedings to achieve their ill-motive directly or indirectly. All such attempts are to be thwarted by the Courts by hearing the cases in a consistent manner and without granting long adjournments, which will result in loss of continuity. Thus, consistent disposal of the cases by Courts in respect of the



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cases on its board is of paramount importance”.

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8. The learned Counsel for the Respondents has placed reliance on the rulings reported in **2022-2-L.W.835** in the case of ***Bhakthavatchalam Vs Deiveegan*** wherein the relevant portion is extracted hereunder:-

“C.P.C., Order 8 Rule 9 ' subsequent pleadings', what is, additional written statement, scope

Examination of PW1 was over-Additional written statement is in line with the written statement is already filed-because the amendment sought is alleged to be inconsistent with the previous case of the defendant, it is not a good reason for rejecting the application of the defendant for amendment

Application filed eleven years after filing of the suit- Effect of- Delay is no ground for dismissal of application”

9.Point for consideration:

Whether the order passed by the learned Principal District Munsif, Tiruchengode in granting permission to the Defendants 1 to 8 to file additional written statement by order dated 08.01.2020 by allowing I.A.No.2 of 2019 in O.S.No.25 of 2015 is to be set aside?

10. On consideration of the rival submissions, on perusal of the written statement, the affidavit filed by the 6th Defendant as Petitioner in



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I.A.No.2 of 2019 in O.S.No.25 of 2015, the counter filed by the Plaintiffs as Respondents and the order passed by the learned Principal District Munsif, Tiruchengode in I.A.No.2 of 2019 in O.S.No.25 of 2015 dated 08.01.2020, it is found that two circumstances had been stated by the learned Principal District Munsif in allowing the petition. The first Plaintiff as P.W.1 had filed examination-in-chief as affidavit and had marked documents as Ex.A1 to Ex.A14. At that stage, the Plaintiffs had filed I.A.No.1 of 2019 under Order VI, Rule 17 of CPC which was allowed by the learned Principal District Munsif on 30.09.2019. Subsequently, the Plaintiffs had amended the plaint. The learned Counsel for the Defendants who had appeared on change of vakalat had instructed the Defendants 1 to 8 to file additional written statement to meet out the pleadings of the Plaintiffs effectively. When the Plaintiffs had amended the Plaint at the stage of P.W.1 evidence, then it is natural under Section 151 of CPC for the Court to allow the Defendants 1 to 8/private parties to meet out the pleadings of the Plaintiffs. They cannot be prevented on the ground of delay. The submission of the learned Counsel for the Revision Petitioners/Plaintiffs before the Trial Court that after 3 years of filing of the written statement, the Defendants 1 to 8 had sought permission to file additional written statement, after framing of the issues



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and when the P.W.1 was in the box are not at all the grounds to deny the Defendants their legitimate right to meet out the amended pleadings of the Plaintiffs. It is to be noted that after change of vakalat, the new Counsel had instructed the Defendants that some vital aspects had not been stated in the written statement already filed. Therefore, for effective defence of the Defendants, they had filed additional written statement immediately after new Counsel had filed change of vakalat. The 6th Defendant had filed a petition in I.A.No.2 of 2019 in O.S.No.25 of 2015 under Order VIII Rule 9 of CPC seeking permission of the Court to file additional written statement.

11. As clearly stated by the learned Principal District Munsif, when P.W.1 was in the box after examination-in-chief was filed as an affidavit and Ex.A1 to Ex.A14 have been marked, the Plaintiffs had filed a petition under Order VI Rule 17 in I.A.1 of 2019 seeking to amend the plaint which was allowed and subsequently, pleadings of the Plaintiffs had been amended on 07.11.2019. Only the 6th Defendant had filed petition seeking permission of the Court to file additional written statement in I.A.No.2 of 2019 in O.S.No.25 of 2015 as per Order VIII, Rule 9 of CPC which is extracted hereunder:-



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“9. Subsequent Pleadings:- No pleading subsequent to the written statement of a defendant other than by way of defence to set off or counter claim shall be presented except by the leave of the Court and upon such terms as the Court thinks fit, but the Court may at any time require a written statement or additional written statement from any of the parties and fix a time of not more than thirty days for presenting the same”.

12. Here it is within 30 days from I.A.No.1 of 2019 was allowed by the Court which was filed by the Plaintiffs to amend the pleadings. Therefore under Section 151 of CPC, the Court has to afford an opportunity to the Defendants to meet out all the pleadings of the Plaintiffs. That is why, the Defendants had filed petition under Order VIII Rule 9 r/w Section 151 of CPC invoking the extraordinary powers of the Civil Court to render justice. Therefore, rulings relied by the Plaintiffs as Revision Petitioners in this petition will not help the Petitioners case.

13.As per Order VIII, Rule 9 of CPC, the Defendants are entitled to plead contradictory claims in the written statement. It is the Plaintiffs, who had approached the Court, who are prevented from making contradictory claims. The Plaintiff has to place his or her definite case before the Court.



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14. In ***Muthusamy and Others -vs- Vinayathan*** this Court had deprecated the practice of trial Courts allowing petitions to amend the pleadings by both parties to the suits thereby developing their case in the course of trial. In ***Kuppammal and others -vs- Reghuvelan and others***, it is a case where the Defendants had filed petition seeking to file additional written statements after Plaintiffs had examined three witnesses, after commencement of trial, after one year after commencement of trial and after three years after issues were framed. Therefore, the petition seeking to file additional written statement by Defendants was dismissed. Here the facts are different. The Plaintiffs themselves filed petition seeking amendment after commencement of trial, after plaintiffs themselves filing affidavit as Examination-in-Chief of P.W-1 and marking documents. At that stage, the petition for amending the plaint by Plaintiffs was allowed by the Court. After allowing the Plaintiffs to amend the plaint, the Defendants had filed Petition seeking permission to file additional written statement to meet out the pleadings of the Plaintiffs. It was filed immediately within a month after amendment of plaint by the Plaintiffs. Therefore, it cannot be faulted. It is natural. Therefore, the facts of the case in the reported rulings in (1) ***Kuppammal and others -vs- Reghuvelan and others*** and (2) ***Muthusamy***



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and Others -vs- Vinayathan cannot be pressed into service to dismiss the petition filed by the Defendants seeking permission of the Court to file additional written statement. Therefore, the same is rejected as it is not helpful to the Petitioners' case. When the Plaintiffs themselves had amended the plaint, they cannot resist the Defendants seeking permission of the Court to file additional written statement to meet out the new pleadings of the Plaintiffs, after amendment of pleadings by Plaintiffs. Therefore, the rulings cited by the Plaintiffs as Revision Petitioners herein is rejected. In the specific facts in this case, after Plaintiffs were permitted to amend the plaint, it is natural for the Defendants to seek permission of the Court to file additional written statement to meet out the pleadings by the Plaintiffs. Therefore, the Court has rightly allowed the Petition seeking permission to file additional written statement within one month after pleadings was amended. Therefore, the rulings cited will not be helpful.

15. The rulings cited by the learned Counsel for the Respondents in **2022-2-L.W.835** in the case of ***Bhakthavatchalam Vs Deiveegan*** is applicable to the facts of the case. The objection of the Plaintiffs is that after 3 years of framing of issues, after 4 years of filing of the written statement,



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the Defendants had sought permission of the Court to file additional written statement will not hold good. The objection of the learned Counsel for the Revision Petitioners will not hold good once the Plaintiffs were allowed to amend the pleadings. Then it is natural for the very same judge to allow the Defendants seeking permission of the Court to file additional written statement to meet out the pleadings of the Plaintiffs for effective defence of the Defendants and that was done immediately after new Counsel has taken charge and within one month after allowing the amendment of the plaint pleadings by the learned Judge. Therefore, order passed by the learned Principal District Munsif, Tiruchengode in allowing I.A.No.2 of 2019 in O.S.No.25 of 2015 is a well reasoned order and does not warrant any interference by this Court.

19. In the light of the above discussion, the point for consideration is answered in favour of the Respondents and against the Revision Petitioners. The order passed by the learned Principal District Munsif, Tiruchengode granting permission to the Defendants 1 to 8 to file additional written statement by order dated 08.01.2020 by allowing I.A.No.2 of 2019 in O.S.No.25 of 2015 is to be confirmed.



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In the result, **the Civil Revision Petition is dismissed.**

The order passed by the learned Principal District Munsif, Tiruchengode granting permission to the Defendants 1 to 8 to file additional written statement by order dated 08.01.2020 by allowing I.A.No.2 of 2019 in O.S.No.25 of 2015 is confirmed. Consequently, connected miscellaneous petition is closed.

28.04.2023

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-speaking Order
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To

1. The learned Principal District Munsif,
Tiruchengode.
2. Section Officer,
V.R.Section,
High Court, Madras.



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SATHI KUMAR SUKUMARA KURUP, J.

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Order made in
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