



CRP Nos.2860 and 2728 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2023

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

**Civil Revision Petition Nos.2860 and 2728 of 2023
and CMP.Nos.17720 and 16818 of 2023**

Arumugapillai

... Petitioner in both cases

Vs.

1. Muthu
2. Lakshmi
3. The Sub Registrar
Sub Registrar Officer, Vandavasi,
Tiruvannamalai District.
4. The District Collector,
The District Collector Office,
Thiruvannamalai District.
5. The Tahsildar,
Tahsildar Office, Cheyyar,
Thiruvannamalai District.

... Respondents in both cases

Civil Revision Petition filed under Article 227 of Constitution of India to set aside the common order passed in IA.Nos.1 and 2 of 2023 in OS.No.80 of 2020 respectively dated 29.03.2023 on the file of the Principal District Munsif, Cheyyar, Thiruvannamalai District.

For Petitioner : Mr.K.G.Senthilkumar

COMMON ORDER

Both the Civil Revision Petitions have been filed to set aside the common order passed in IA.Nos.1 and 2 of 2023 in OS.No.80 of 2023 dated 29.03.2023.



CRP Nos.2860 and 2728 of 2023

WEB COPY

2. The brief facts of the case is as follows:-

The petitioner is the plaintiff in the suit. The plaintiff has filed the suit for declaration declaring the D and C Schedule property in Doc.No.1830 of 1993 dated 12.10.1993 as null and void on the file of the 3rd respondent and for a mandatory injunction to delete the D and C Schedule property from the Doc.No.1830 of 1993 and for a permanent injunction restraining the 5th respondent/Tahsildar from issuing any patta.

3. Before the trial Court, the defendants 1 and 2 have filed their written statement and the suit was posted for reply arguments, at that stage, the petitioner/plaintiff filed IA.No.1 of 2023 to reopen and IA.No.2 of 2023 to receive the document for counter claim. As it was belatedly filed, the Court below has not given opportunity and proceed with framing of issues. The petitioner was not in a position to file his reply written statement for the counter claim made by the defendants 1 and 2. The trial Court has simply dismissed the petition, on the ground that the written statement which is going to be filed is hit by limitation and by citing the provision under Order 8 Rule 1. The trial Court had failed to look into the provisions under Order 8 Rule 6G, on this score alone both the revision petitions are to be allowed.



CRP Nos.2860 and 2728 of 2023

4. In the counter claim, the trial Court has not extended any opportunity to file the written statement, which is mandatory requirement. During the pendency of the present revision petitions, the suit has been decreed in his favour, there was no reply written statement was filed in the counter claim. The rights of the petitioner ought to have been decided, the said Court has passed the decree and judgment in favour of the petitioner, hence, the learned counsel for the petitioner seeks permission of this Court to withdraw the present revision petitions, with liberty to raise all the aspects in the appeal suit. It is left open to the petitioner to exhaust his remedy available under the CPC before the appellate forum.

5. Both the civil revision petitions are dismissed as withdrawn, with liberty to the petitioner to raise all the aspects before the appellate forum. No costs. Consequently, connected miscellaneous petitions are closed.

25.08.2023

Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order
tsh

To
The District Munsif, Cheyyar, Thiruvannamalai District.



WEB COPY



CRP Nos.2860 and 2728 of 2023

V.BHAVANI SUBBAROYAN J.
tsh

CRP.No.2860 and 2728 of 2023

25.08.2023.