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C.R.P.No.2968 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2023

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THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.2968 of 2022

and

C.M.P.No.16052 of 2022

Mrs.Kamakshi

... Petitioner

Vs.

1.Mr.N.Narayanamoorthy

2.Ms.N.Jayanthi

... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 23.04.2022 made in I.A.No.276 of 2021 in O.S.No.351 of 2017, on the file of the Principal District Munsif Court at Poonamallee.

For Petitioner : Mr.R.Prabu

For Respondent : Mr.N.Suresh for
Mr.T.R.Rajaraman



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ORDER

The Civil Revision petition is filed challenging the fair and decretal order dated 23.4.2022, passed in I.A.No.276 of 2021 in O.S.No.351 of 2017. The revision petitioner is the plaintiff who instituted a suit for declaration.

2. During the pendency of the suit, the respondents/defendants filed an Interlocutory Application in I.A. No.276 of 2021, under Order 8 Rule 6(A) and Section 151 of CPC, to receive the counterclaim. The said petition was considered and allowed by the Trial Court and thus, the revision petitioners are constrained to move the present petition.

3. The learned counsel for the petitioner mainly contended that the respondents/defendants have already filed their written statement in the suit and the Trial Court framed the issues and posted the suit for trial. At the stage of trial, the respondents filed an Interlocutory Application for counterclaim and therefore, the Interlocutory Application is not maintainable and the Trial Court without considering the settled position of law allowed the counterclaim and thus, the order is to be set aside.



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4. The learned counsel for the respondent raised an objection by stating that the counterclaim was admittedly filed after filing the written statement. However, the revision petitioners are attempting to prolong the suit and thus, the respondents have raised an objection. The revision petitioners are unnecessarily filing Interlocutory Applications and dragging on the suit proceedings despite the fact that the issues were framed and the suit was instituted five years back.

5. As far as the order impugned in the present revision petition is concerned, Order 8 Rule 6(A) unambiguously stipulates that the counterclaim is to be filed before the defendant has delivered his defence or before the time limited for delivering his defence has expired. However, in the present case, admittedly, the written statement was filed by the respondents and the issues were also framed by the Trial Court. Thus, the counterclaim filed by defendants 1 and 2 is not entertainable under Order 8 Rule 6(A) of CPC.



6. The Trial Court admittedly has framed the issues and therefore, unnecessary Interlocutory Applications if any filed cannot be entertained by the Courts. Parties to the suit are expected to co-ordinate for speedy disposal of the suit and Court cannot grant unnecessary adjournments without any valid reason. Even Adjournments are to be granted on genuine grounds by recording the reasons. In the event of filing frivolous Interlocutory Applications with an idea to drag on the case, the Courts are expected to impose exemplary or maximum cost and the cases are to be disposed of consistently and without causing any undue delay. Even for adjournments, if the Courts find that it is sought on flimsy grounds, then cost is to be imposed. However, this Court is not inclined to fix any time limit since the Court conducting the trial shall regulate its own proceedings so as to ensure the cases are disposed of in a systematic manner. Thus, it is made clear that the parties to the suit shall co-operate for the early disposal of the suit and filing of unnecessary petitions or seeking adjournments to be avoided.

7. With these view of the facts and circumstances, the fair and



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decretal order dated 23.04.2022, passed in I.A.No.276 of 2021, in O.S.No.351 of 2017, is set aside and the Civil Revision Petition stands **allowed**. However there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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06.01.2023

Index:Yes
Internet:Yes
Speaking Order

To

1. Principal District Munsif Court, Poonamallee.



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S.M.SUBRAMANIAM.J.,

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