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C.R.P.No.1331 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:20.03.2023

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.R.P.No.1331 of 2021
and C.M.P.No.10377 of 2021

Sundharapandiyan

...Petitioner

Versus

1.Kanagambal

2.Saravanan

3.Arumugam

... Respondents.

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, pleaded to set aside the fair and the decreetal order dated 19.02.2021 made in I.A.No.177 of 2020 in O.S.No.215 of 2018 on the file of the 1st Additional District Munsif Court, Virudhachalam.

For Petitioner : Mr.C.Munusamy
For Respondent : Ms. Meera Rubavani
for M/S.A.L.Gandhimathi

O R D E R

The learned Counsel for the Revision Petitioner would submit that the Plaintiff in O.S.No.215 of 2018 preferred this Civil Revision Petition against the order of dismissal of I.A.No.177 of 2020 on the file of the 1st Additional



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District Munsif Court, Virudhachalam dated 19.02.2021.

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2. It is the contention of the learned counsel for the Revision Petitioner that the Revision Petitioner as Plaintiff in O.S.No.215 of 2018 had filed a suit for declaration of title and permanent injunction against the Defendants 1 to 3. It is his further contention that the vendor of the Petitioner herein and the husband of the 1st Defendant, father of the 2nd Defendant and 3rd Defendant being enjoyed the ancestral property. While so, they had entered into the exchange deed on 09.05.1988. Accordingly, the suit property was exchanged to the vendor of the Petitioner herein. Since one Ayyasamy died and his wife one Rangammal/vendor from whom, the Petitioner had purchased the property and she had executed the sale deed in favour of the Petitioner herein. Subsequently, the husband of the 1st Defendant one Ramasamy had executed the gift deed for the very same property in favour of the 2nd Defendant/Son. Based on which, they claimed title to the property. Therefore, the Plaintiff was forced to file a suit in O.S.No.215 of 2018 before the 1st Additional District Munsif Court, Virudhachalam.

3. It is the case of the Plaintiff that after filing written statement, the Plaintiff wanted to file reply statement to meet out the averments made in the written statement. The learned Trial Judge had dismissed the I.A.No.177 of 2020 filed by the Plaintiff seeking permission of the Court to file reply



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statement stating that it is a belated petition and it was filed with an ulterior motive to protract the proceedings. It is the contention of the learned counsel for the Revision Petitioner that Revision Petitioner/Plaintiff has no intention to drag on the proceedings. Further, before the trial, the Plaintiff has to be protected in meeting out the pleadings and it cannot be curtailed. Therefore, the learned Counsel for the Revision Petitioner submit that the Petitioner has to be given a chance to meet out the averments in the written statement. The learned Counsel for the Revision Petitioner invited the attention of this Court to Paragraph No. 9 of the order in I.A.No.177 of 2020 in O.S.No.215 of 2018.

4.The learned District Munsif has observed that as per Order VIII Rule 9, pleadings has to be filed within a period of 30 days. But, the petition had been filed seeking permission of the Court to file reply statement to written statement filed by the Defendant after framing of the issues cannot be a reason for the Plaintiff to give an opportunity to meet out the pleadings in the written statement. Therefore, the valuable right of the Plaintiff is affected by the refusal to grant permission to Plaintiff to file reply statement. Therefore, the learned Counsel for the Revision Petitioner seeks to set aside the order of the dismissal of the I.A.No.177 of 2020 in O.S.No.215 of 2018 dated 19.02.2021.

5.The learned Counsel for the Defendants would submit that the Defendants are Respondents in this petition and the Petitioner had not



approached the Court within a specified time as per Order VIII Rule 9. Further,

it is the contention of the learned Counsel for the Respondents that earlier the suit in O.S.No.190 of 2012 was filed by one Rangammal and the same was dismissed on 28.11.2016 and the petition to restore the suit was also dismissed. Therefore, the Plaintiff had filed the suit only in continuation of the same. That is why, it was observed that the Plaintiff himself is not interested to prosecute and only with the ulterior motive, the petition had been filed after framing of issues. Therefore, the order passed by the learned District Munsif is a well reasoned order and it does not warrant any interference by this Court by exercising discretion Article 227 of Constitution of India.

6. Heard the learned Counsel for the Petitioner and the learned Counsel for the 1st Respondent.

7. On consideration of the rival submissions, it was found that the Plaintiff had filed a suit in the year 2018 and the trial having not commenced, the Plaintiff had filed the petition seeking permission of the Court to file reply statement to the written statement filed by the Defendants before proceedings of the trial. Therefore, on strict interpretation of the Civil Procedure Code under Order VIII Rule 9, the refusal of the Court in not permitting the Plaintiff to meet out the pleadings in the written statement by filing reply statement is found unacceptable.



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8. Therefore, the objections of the learned Counsel for the Respondents that this is a well reasoned order and it does not warrant any interference by this Court is rejected.

9. As rightly pointed out by the learned Counsel for the Revision Petitioner that the Plaintiff has to be granted a chance to meet out the pleadings and the Plaintiff cannot be curtailed in the pleadings is accepted. The order passed by the learned District Munsif, Virudhachalam dated 19.02.2021 dismissing the I.A.No.177 of 2020 in O.S.No.215 of 2018 is set aside. Accordingly, the Civil Revision Petition is allowed. Consequently, connected miscellaneous petition is closed.

10. The learned District Munsif is directed to afford an opportunity to the Plaintiff to meet out the pleadings and dispose of the suit on priority basis.

20.03.2023

Index: Yes/ No
Speaking Order / Non-Speaking Order
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SATHI KUMAR SUKUMARA KURUP, J.

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