



C.R.P.No.2287 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.2287 of 2019

and

C.M.P.No.14908 of 2019

D.Thenmozhi

....

Petitioner

Vs

1. Thirupurammal

2. A.Annadurai

....

Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India to allow the above CRP by setting aside the fair and decreetal order dated 08.02.2019 passed in I.A.No.97 of 2018 in O.S.No.44 of 2011 on the file of the Subordinate Judge, Kanchipuram, Kanchipuram District.

For Petitioner : Mr.R.Anbalagan

For R1 : Mr.Y.Jyothish Chander

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 08.02.2019 passed in I.A.No.97 of 2018 in O.S.No.44



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of 2011 on the file of the Subordinate Judge, Kanchipuram, Kanchipuram District, thereby dismissing the petitioner seeking counter claim.

2. The first respondent herein filed a suit for partition seeking 1/6th share in respect of the suit properties. The suit was filed on 29.07.2008. On receipt of the suit summon, the petitioner filed written statement on 16.10.2008. Thereafter, the issues were framed on 17.09.2009. The suit has been posted for cross examination of P.W.1. The petitioner filed an application seeking counter claim under Order 8 Rule 6 CPC. The only point for consideration is that whether the counter claim can be accepted belatedly, the counter claim cannot be filed once recording of evidence has commenced. Though the object of Order 8 Rule 6A of CPC is to avoid multiplicity of proceedings, it cannot be filed belatedly and the law of limitation squarely applies to a counter claim. Admittedly, the petitioner already filed written statement as early as on 16.10.2008 itself. Whereas, the petitioner filed counter claim only on 08.01.2018. The plea of counter claim after commencement of trial is not permitted under CPC. Hence, the Court below dismissed the petition.



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3. In view of above, this Court finds no infirmity or illegality in the order dated 08.02.2019 passed in I.A.No.97 of 2018 in O.S.No.44 of 2011 on the file of the Subordinate Judge, Kanchipuram, Kanchipuram District. Accordingly, this Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

02.01.2023

Index:Yes/No
Internet:Yes/No
Speaking Order: Yes/No
Lpp

To

The Subordinate Judge,
Kanchipuram,
Kanchipuram District.



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G.K.ILANTHIRAIYAN, J.

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