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CRP.No.2110 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.06.2023

PRONOUNCED ON : 30.06.2023

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRP.No.2110 of 2020

and

CMP.No.13344 of 2020

Nagoor Gani

... Petitioner

Vs.

1.Ranjitkumar

2.H.A.Arjundossji Mahant Varu

Sri Swami Hathiramji Mutt,

122, Gandhi Road,

Tirupathi,

Andhra Pradesh,

(2nd Respondent is given up as

he remained *ex-parte*)

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 29.11.2019 in I.A.No.152 of 2019 in O.S.No.217 of 2014 on the file of the learned Principal District Munsif, Virudhachalam.

For Petitioner : Mr.T.Sezhian

For Respondents : Mrs.S.S.Meenakumary

For R1

For R2 – Given Up



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ORDER

This Civil Revision Petition had been filed seeking to set aside the fair and decretal order dated 29.11.2019 in I.A.No.152 of 2019 in O.S.No.217 of 2014 on the file of the learned Principal District Munsif, Virudhachalam.

2.The brief facts, which are relevant to decide this Civil Revision Petition, are as follows:-

2.1.The Petitioner is the Plaintiff in O.S.No.217 of 2014 before the learned Principal District Munsif, Virudhachalam. The Plaintiff had filed a suit for declaration of title to the suit property and for permanent injunction against the Defendant in the suit.

2.2.Originally, the suit properties belong to Bhairagi Mutt. One Gopaldoss Bhavaji was the Madathipathi of the said Mutt. After him, his son Kanaiyalal Bhavaji was appointed as Madathipathi by deed dated 26.11.1972. In the course of administration of the mutt, to settle the mortgage loans of the mutt and for effective administration, Kanaiyalal Bhavaji as head of the Mutt, had executed a sale deed dated 10.08.2006 in favour of the Plaintiff. From 2006, the Plaintiff is in possession and



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enjoyment of the property and cultivating the lands. While so, on 20.09.2014 the Defendant sought the land to set up workshop. The Plaintiff refused to do so. The Defendant attempted to trespass into the property. Therefore, the Plaintiff filed the suit in O.S.No.217 of 2014 seeking declaration of title over the suit property and for permanent injunction against the Defendant. The Defendant had filed I.A.No.152 of 2019 in O.S.No.217 of 2014 seeking permission of the Court to file reply statement. The Defendant in the suit as Respondent in I.A.No.152 of 2019 resisted the same.

2.3.The Defendant in the suit filed written statement. After filing of the written statement by the Defendant, the Plaintiff filed I.A.No.152 of 2019 in O.S.No.217 of 2014 seeking permission of the Court to file reply statement. The Defendant in the suit filed counter opposing the same. After enquiry, the learned Principal District Munsif, Virudhachalam, had dismissed the I.A.No.152 of 2019 in O.S.No.217 of 2014 by order dated 29.11.2019. Aggrieved by the same, the Plaintiff in O.S.No.217 of 2014, the Petitioner in I.A.No.152 of 2019 had filed this Civil Revision Petition under Article 227 of the Constitution of India seeking to set aside the order passed by the learned Principal District Munsif, Viruthachalam in



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I.A.No.152 of 2019 in O.S.No.217 of 2014 dated 29.11.2019.

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3. It is the submission of the learned Counsel for the Revision Petitioner that the learned Trial Judge had dismissed the petition filed by the Plaintiff seeking to file reply statement. The written statement filed by the Defendant on the ground that immediately after filing of the written statement, the Plaintiff ought to have filed his reply statement within a reasonable period of one month. Therefore, the order passed by the learned Principal District Munsif, Virudhachalam, is to be set aside.

4. The learned Counsel for the Respondent vehemently objected to the arguments of the learned Counsel for the Revision Petitioner stating that the suit is of the year 2014. CRP is filed in the year 2020, since, three years had lapsed. Therefore, there is no merits in this case. Hence, this Civil Revision Petition may be dismissed with a direction to the learned Principal District Munsif, Virudhachalam to proceed with the Trial and dispose of the suit within a reasonable period.

5.Points for consideration:



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Whether the order passed by the learned Principal District Munsif, Virudhachalam dismissing the I.A.No.152 of 2019 in O.S.No.217 of 2014 on the file of the learned Principal District Munsif, Virudhachalam dated 29.11.2019 is to be set aside?

6. On consideration of the rival submissions and on perusal of the order passed by the Learned Principal District Munsif, Virudhachalam dismissing the I.A.No.152 of 2019 in O.S.No.217 of 2014 is true. After filing of the written statement, the Plaintiff, if intended to file reply statement within a reasonable period of one month from the date of filing of the written statement, whereas, the Plaintiff had not filed the reply statement within the stipulated period of time.

7. The learned Principal District Munsif, Virudhachalam, while dismissing the petition filed by the Plaintiff and had observed the written statement filed by the Defendant is denied in the reply statement. Therefore, the learned Principal District Munsif, Virudhachalam had dismissed the petition as not warranted. Since, the Trial had not yet commenced, if the Plaintiff intends and in order to meet out the pleadings made in the written



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statement by filing reply statement, it has to be liberally allowed as the Trial has not commenced. After commencement of the Trial, reply statement or additional pleadings cannot at all be allowed. During Trial, if evidence is let out by both parties. One of the party may make an objection stating that evidence is not supported with the pleadings. Therefore, the Plaintiff wants to file reply statement. For which he has to obtain permission of the Court and without going into the merits and technicalities of law. The permission for filing reply statement or additional pleadings had to be granted before the commencement of Trial. Even though, the order passed by the learned Principal District Munsif, Virudhachalm is a reasonable order, the same has to be set aside. Considering the valuable right of the Plaintiff to meet out the pleadings of the Defendant in the written statement.

8. In the light of the above discussion, point for consideration is answered in favour of the Petitioner and against the Defendant. The order passed by the learned Principal District Munsif, Virudhachalam dismissing the I.A.No.152 of 2019 in O.S.No.217 of 2014, dated 29.11.2019 is liable to be set aside.



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In the result, **this Civil Revision Petition is allowed.**

The order passed by the learned Principal District Munsif, Virudhachalam dismissing the I.A.No.152 of 2019 in O.S.No.217 of 2014, dated 29.11.2019 is set aside. The learned Principal District Munsif, Virudhachalam is directed to permit the Petitioner/Plaintiff in O.S.No.217 of 2014 to file reply statement and proceed with the trial in the suit in O.S.No.217 of 2014 and dispose off the same on merits as per law. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

30.06.2023

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes/No
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SATHI KUMAR SUKUMARA KURUP., J.

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To

- 1.The Principal District Munsif Court,
Virudhachalam.
- 2.The Section Officer,
V.R.Section,
Madras High Court,
Chennai – 600 104.

Order made in
CRP.No.2110 of 2020
and
CMP.No.13344 of 2020

30.06.2023