



WEB COPY



C.R.P.(PD)No.2700 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.2700 of 2023
and CMP.No.16658 of 2023

P.Shanmugam

.. Petitioner

VS

1.S.Ramakrishnan
2.S.Yuvaraj
3.S.Sundarraaj
4.S.Yadavaraj

.. Respondents

Petition filed under Article 227 of the Constitution of India against
the Order of Additional District Judge, Kanchipuram at Chengleput in
unnumbered Counter Claim in O.S.No.59 of 2016 dated 06.06.2023.

For Petitioner : Mr.G.Surya Narayanan

ORDER

An application for filing a counter claim was filed at the stage
when PW1 was under going cross examination. The learned trial Judge
refused to accept the counter claim on the ground that the outer limit for
filing the counter claim is only on the date of settlement of issues. In this



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case, written statement has been filed, issues have been framed and matter has gone for trial.

2.Mr.G.Surya Narayanan, learned counsel appearing for the petitioner would vehemently contend that today the suit is posted for framing of additional issues and therefore, the time for filing of counter claim stands extended, because, the Court is still at the stage of framing issues.

3.I am unable to agree with the said contentions. Fresh issues can be framed at any time before the judgment. It does not mean, the outer limit fixed under Order 8 Rule 6A of the CPC stand extended each time the Court frames additional issues. Plain reading of the provision shows that the outer limit for filing a counter claim is on the date on which issues are settled in a suit. It does not speak about additional issues also. Therefore, if I were to agree to the argument of Mr.Surya Narayanan, then I would be amending the CPC, which I am incompetent to do.

4.Consequently, the civil revision petition has to fail and the civil revision petition is dismissed. Having said this, I have to add, the finding of the learned Judge that the counter claim is barred by limitation is not one warranted in the circumstances. The Court cannot go into the question of limitation especially, when the Court has decided that the



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petition filed under Order 8 Rule 6A of the CPC is not maintainable.

Therefore, that finding alone is vacated. The parties can workout their rights independently of the present proceeding. No costs. Consequently, connected miscellaneous petition is closed.

31.07.2023

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

vs

To

The Additional District Judge,
Kanchipuram at Chengleput.



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V. LAKSHMINARAYANAN,J.

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