



WEB COPY

Application No.3874 of 2023
in C.S.No.428 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.08.2023

PRONOUNCED ON : 22.08.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Application No.3874 of 2023
in C.S.No.428 of 2019

Meena Jawahar Palaniappan ... Applicant /
Plaintiff

versus

1.Headway Projects
23, 7th Cross Street,
West Shenoy Nagar,
Chennai - 600 030.

2.A.Vani Priya ... Respondents /
Defendants 1 & 2

PRAYER: Application filed under Order XIV Rule 8 of the Original Side Rules read with Order VIII Rule 9 of the Code of Civil Procedure 1908, praying to receive the reply statement dated 28.07.2023 to the written statement of defendants 1 and 2 in C.S.No.428 of 2019.

For Applicant : Mr.B.S.Jhothiraman

For Respondents : M/s.P.C.Harikumar



ORDER

This Application has been filed to receive the reply statement dated 28.07.2023 to the written statement filed by the defendants 1 and 2 in C.S.No.428 of 2019.

2. Heard the learned counsels for the applicant / plaintiff and respondents / defendants 1 and 2 and perused the materials available on record.

Submission of the applicant:-

3. The learned counsel for the applicant / plaintiff submitted that the allegations and assertions made by the defendants 1 and 2 in their written statement are baseless and hence, the applicant / plaintiff should be permitted to file a reply statement to the written statement filed by the defendants 1 and 2 in C.S.No.428 of 2019.

Submission of the respondents:-

4. The learned counsel for the respondents / defendants 1 and 2 submitted that there is no necessity to file any reply statement and in the



name of filing the reply statement, the plaintiff is trying to bring new materials to her plaint. The reply statement is permitted in the following 3 situations:-

- “(i) when it is required by law;*
- (ii) when a counter claim is raised or set off is pleaded by the defendant; and*
- (iii) when the court directs or permits a replication being filed.”*

4.1. The written statement is nothing but denial of facts set out in the plaint along with the defense; new facts pleaded by the plaintiff in the reply statement would amount to amending her plaint itself; no sufficient cause is shown to file reply statement and hence, this application should be dismissed.

Discussion:-

5. The applicant / plaintiff had filed a suit for recovery of money of Rs.3,90,00,000/- along with interest and to direct the mortgaged properties to be sold in public auction for realising the suit amount. The



transaction between the plaintiff and the defendants had been detailed in the plaint and it is alleged that the defendants had entered into a Memorandum of Understanding (MOU) with the plaintiff by assuring to adhere to the terms and conditions in the schedule of payment as mentioned in the MOU. The plaintiff has alleged that a supplementary MOU dated 13.12.2014 has been executed by the defendants by accepting their liability. As the defendants did not make payments, the third MOU was also said to have been executed on 25.03.2015. It is further alleged that the first defendant had executed a deed of guarantee in favour of the plaintiff and he also executed a mortgage by depositing of title deeds in respect of the properties situated in Chitrathur Village. So the failure on the part of the defendants is said to have given to the cause of action to the plaintiff and hence, the suit has been filed by her.

6. The defendants 1 and 2 had entered appearance and filed their written statement by denying the allegations made in the plaint and set out their defence by stating that the plaintiff is not entitled to the decree as prayed for. So the written statement does not speak about any new transaction or set out any counter claim. The allegations made in the plaint



and the denial made in the written statement would naturally lead to framing of issues for the purpose of trial.

WEB COPY

7. The reply statement has also been attached along with the application seeking permission. On perusal of the same, it is seen that the plaintiff has made a lengthy reply statement which is lengthier than her plaint. The plaintiff had chosen to give explanation to each and every denial made by the defendants in their written statement. As rightly pointed out by the learned counsel for the respondents / defendants 1 and 2, the applicant / plaintiff has to satisfy either of the following to file reply statement:-

“(i) when it is required by law;

(ii) when a counter claim is raised or set off is pleaded by the defendant; and

(iii) when the court directs or permits a replication being filed.”

8. The averments in the reply statement made beyond the scope of receiving the reply statement. On the pretext of giving permission to file the



reply statement, the plaintiff should not be encouraged to indirectly amend the plaint as per her whims.

WEB COPY

9. As rightly pointed out by the learned counsel for the respondents / defendants 1 and 2 that the reply statement sought to be filed by the plaintiff is more or like a detailed amendment and it is totally outside the considerations for receiving the reply statement. The plaintiff who has filed the suit should be confident about her own pleadings and case. It is claimed by the plaintiff that the defendants have filed their written statement as though it is believable by the Court. Such a prejudicial notion on the part of the plaintiff cannot be at any cost a reason for allowing her to file reply statement.

10. In the pretext of filing the reply statement, the plaintiff should not be allowed to complicate the matter or compound the pleadings. From the reading of the plaint and the written statement filed by the defendants, I find no scope for granting permission for filing any reply statement.



11. In view of the above stated reasons, the application in

Application No.3874 of 2023 is dismissed.

WEB COPY

22.08.2023

Speaking order

Index : Yes

Neutral Citation : Yes

sri



WEB COPY

Application No.3874 of 2023
in C.S.No.428 of 2019



R.N.MANJULA, J.

sri

Pre-Delivery Order made in
Application No.3874 of 2023
in C.S.No.428 of 2019

22.08.2023
[1/2]