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CRP No.3042 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2023

CORAM :

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRP No.3042 of 2023
& CMP No. 16418 of 2022

S.A.Paramasivam

.... Petitioner

-Vs-

G.Sathasivam @ Selvam (dead)

- 1.G.Subramani
- 2.N.Kandasamy
- 3.Indrani
- 4.S.Mohanraj
- 5.S.Gautam.

.... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India, to set aside the order and decretal order dated 14.07.2022 passed in I.A No. 1 of 2022 in O.S No. 170 of 2007 on the file of the II Addittional Subordinate Judge at Erode.

For Petitioner	: Mr.R.Harikrishnan
For R1 and R2	: Not appeared
For R3 and R5	: S.Kaithamalai Kumaran



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CRP No.3042 of 2022

ORDER

This petition has been filed to set aside the order and decretal order dated 14.07.2022 passed in I.A No. 1 of 2022 in O.S No. 170 of 2007, on the file of the II Additional Subordinate Judge, Erode.

2. The petitioner herein filed I.A No. 1 of 2022 in O.S No. 170 of 2007, to receive the reply statement for the written statement filed by the second respondent, the said application was objected by the second respondent. After considering both side submissions the Trial Court dismissed the said I.A No. 1 of 2022 in O.S No. 170 of 2017.

3. Challenging the said order the petitioner filed this revision petition.

4. The learned counsel for the petitioner submitted that already he filed reply statement for the first respondent's written statement now he want to file reply statement for the second respondent's written statement. But the Trial Court dismissed the application without giving opportunity to the petitioner hence he prays to set aside the same.

5. The learned counsel for the respondents submitted that Trial Court rightly dismissed the said application. Hence he prays to dismiss this petition.



6. On bare perusal of records, the suit was filed for specific performance against six defendants, during the suit proceedings first defendant was died. Second defendant is brother of the first defendant and other defendants are legal heirs of the defendant. The second defendant/respondent filed written statement for which the petitioner filed reply statement which was not accepted by the Trial Court. Hence the petitioner this petition.

7. Considering the fact that the law permits the plaintiff to file reply statement for the written statement in order to prove his defense. In fact, the second defendant filed independent written statement in the year 2013, to deny the same the plaintiff have right to file reply statement but the Trial Court not appreciated this facts. Therefore, the order passed in I.A No. 1 of 2022 in O.S No. 170 of 2007 in hereby set aside, the petitioner is permitted to file reply statement for the written statement filed by the second defendant. Further, the Trial Court is directed to dispose O.S No. 170 of 2007 within a period of six months from the date of receipt of a copy of this order.



CRP No.3042 of 2022

8. Accordingly this Civil Revision Petition is disposed of. No costs.

Consequently connected miscellaneous petition is closed.

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06.03.2023

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CRP No.3042 of 2022

T.V.THAMILSELVI, J.
pbl

CRP.No.3042 of 2022
& CMP No. 16418 of 2022

06.03.2023