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C.R.P.Nos.3664 & 3706 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos.3664 & 3706 of 2023

and

C.M.P.Nos.22963 & 23180 of 2023

Subramani

... Petitioner in
both C.R.P.s

-Vs-

T.G.Krishnasamy (died)

K.Karthikeyan (died)

1. K.Shanmugasundaram
2. K.Boopathy
3. K.Ganapathy

K.Sahadevan (died)

4. K.Thirunavukkarasu
5. Malathi
6. Bhavanishankar
7. Rajiv

... Respondents in
C.R.P.No.3664/2023

- 1.T.A.Subramanian
- 2.K.Boopathy

... Respondents in
C.R.P.No.3706/2023



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Prayer in C.R.P.No. 3664 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and final order passed in I.A. No.6 of 2022 in O.S. No.6 of 2009 on the file of the Sub Court, Perundurai dated 13.09.2023.

Prayer in C.R.P.No. 3706 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and final order passed in I.A. No.2 of 2022 in O.S. No.5 of 2009 on the file of the Sub Court, Perundurai dated 13.09.2023.

For Petitioner in

both C.R.P.s : Mr.A.Sundara Vadhanan

COMMON ORDER

Challenging the impugned orders passed in I.A.Nos.6 and 2 of 2022 in O.S.Nos.6 and 5 of 2009 by the learned Sub-Judge, Perundurai respectively, the Revision Petitioner preferred these Civil Revision Petitions.



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2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioner filed the said Interlocutory Applications seeking to permit him to file additional written statement in both suits respectively in order to prove the collusion between the parties. Those applications were objected by the plaintiffs stating that the suit is pending from the year of 2009 and only to drag on the proceedings, after the lapse of 10 years, the Revision Petitioner filed those applications. On considering both side submissions, the trial judge held that the pleadings of written statement would prove that there is subsequent development, which can be proved by way of evidence, so, the filing of additional written statement is not necessary to the trial proceedings. Accordingly, those applications were dismissed. Challenging the said findings, this Civil Revision Petition has been filed.

4. On a bare perusal of records, it reveals that as the 4th defendant in the suit in O.S.No. 5 of 2009 as well as the 3rd defendant in O.S.No.6 of 2009, he approached the court seeking permission to file additional written statement, which is permissible under law, since because now the



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evidence of P.W.1 is to be commenced. Though after the lapse of 10 years, he filed those applications, opportunity is to be given to the party in the trial court to prove his case, otherwise, his valuable right to defend the case will be defeated. But the trial court erroneously dismissed the applications, which shows the non-application of judicious mind. Hence, the findings rendered by the trial judge is liable to be set aside. Accordingly, these Civil Revision Petitions are allowed and the impugned orders passed by the trial judge in I.A.Nos.2 and 6 of 2022 in O.S.Nos.5 and 6 of 2009 are set aside and the said applications are ordered to be allowed. Liberty is given to the Revision Petitioner to file additional written statement, if necessity arose and thereafter, the trial judge is directed to proceed with the trial as per manner known to law. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

01.11.2023

Index : Yes/No

Speaking Order : Yes/No

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To

The Subordinate Judge, Perundurai.



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T.V.THAMILSELVI, J.

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