



C.R.P.No.3745 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

CORAM:

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

C.R.P.No.3745 of 2023

and

C.M.P.No.23342 of 2023

Palanisamy Chettiyar (died)

1. Rajeswari
2. Tulasimani
3. Mohan Raj

... Petitioners

-Vs-

Arumugam

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 21.08.2023 passed in I.A.No.6 of 2023 in O.S.No.423 of 2006 on the file of Principal District Munsif, Pollachi, Coimbatore Dt.

For Petitioners

: Mr.C.Veera Raghavan



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ORDER

Challenging the impugned order passed in I.A.No.6 of 2023 in O.S.No.423 of 2006 by the learned Principal District Munsif, Pollachi, Coimbatore District, the Revision Petitioner/defendants 2 to 4 preferred this Civil Revision Petition.

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

3. Before the trial court, the Revision Petitioners/defendants 2 to 4 have filed an application to receive additional written statement under Order 8 Rule 9 of C.P.C. and the same was dismissed by the trial judge stating that by filing additional written statement, they wanted to include some more new defence, for which they are not entitled, since because the trial was begun and the case is posted for cross-examination of P.W.1. Aggrieved over the same, the defendants 2 to 4 filed the present Civil Revision Petition.

4. The learned counsel for Revision Petitioners would submit that



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before the trial court, the plaintiff filed a reply statement for the written statement filed by them. On seeing the reply statement, necessity arose for them to file additional written statement, but it was not accepted by the trial judge, however they are entitled to the same as per provision contained under Order 8 Rule 9 of C.P.C. Hence, he prayed to set aside the findings of the trial judge.

5. On perusal of records, it reveals that after filing of the reply statement by the plaintiff, the defendants seeking permission of the court to file additional written statement, which is permissible as the provisions contained under Order 8 Rule 9 of C.P.C. and if opportunity is not given to the defendants, their valuable right to defend the case will be defeated. Furthermore, now the trial was begun and when the suit is posted for cross-examination of P.W.1, the filing of additional written statement would not prejudice the right of plaintiff. Therefore, the findings rendered by the trial judge is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings rendered by the trial judge in I.A.No.6 of 2023 in O.S.No.423 of 2006 is set aside and the said application is ordered to be allowed. The Revision Petitioners/defendants 2 to 4 are permitted to file their additional written statement. On receipt of the same,



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the trial judge is directed to proceed with the trial and dispose the suit on merit as expeditiously as possible. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
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To

The District Munsif, Pollachi.

T.V.THAMILSELVI, J.



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