



C.R.P.No. 4529 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4529 of 2023

and

C.M.P.No. 27117 of 2023

S. Kanchanamala

.. Petitioner

Vs

1.B.Kalarani

2.M.Balasundaram

3.M.Sasi

4.The Commissioner,

Corporation of Chennai, Chennai – 600 003.

5.The Asst. Revenue Officer,

Zone-6, Corporation of Chennai,

Ayanavaram, Chennai – 600 023.

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 04.11.2023 passed in I.A.No.1 of 2023 in O.S.No.3110 of 2014 on the file of the XII Asst. City Civil Judge, Chennai.

For Petitioner : Mr. P. Babu



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ORDER

This Civil Revision Petition is filed challenging the order passed in I.A.No.1 of 2023 in O.S.No.3110 of 2014, the plaintiff has preferred this revision.

2. Before the trial Court, the plaintiff / petitioner herein filed an application under Order XIV Rule 5 of CPC and Section 151 of CPC to strike off the issues stating that, to strike out the issues framed in the counter claim which was filed by the defendants / respondents herein have been closed by the Court. Therefore, as on date, no pleading was exists in respect of the counter claim, therefore, the issues framed by the trial Judge is liable to be strike off. That application was dismissed by the trial Judge holding that at an earlier counter claim filed by the defendants in affidavit format, which is not in a proper form. Thereafter, suitable amendment was carried out and proper counter claim was filed and the same was received in lieu of the earlier one. Therefore, as on date, the proper counter claim was received and the defective counter claim which was filed at the earliest date was not been accepted by the Court. Therefore, the Court has held that already the



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lis was pending from the year 2014, both the parties are directed to get along with the trial. Accordingly, the application was rejected. Aggrieved by the said finding, the present revision has been filed.

3. The learned counsel for the petitioner submits that as on date, the counter claim which was filed in original I.A.No.9559 of 2019 was not in force. Therefore, the trial Court has no locus standi to frame the issues in respect of the closed I.A.

4. As per the observation made by the trial Judge, as the counter affidavit in respect of the counter claim was in effective manner, subsequently amended and proper counter claim was received by the Court. In lieu of the proper counter claim, the earliest one was closed. But technically the I.A., was closed as such is erroneous one. Therefore, in I.A.No.9559 of 2019 in O.S.No.3110 of 2014, the proper counter claim is ordered to be restored. Both the parties are directed to go for trial and trial Judge is directed to dispose the case within four months from the date of receipt of copy of this order. Both the parties are directed to cooperate for



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the proceeding since both were Advocates and not to cause annoyance before the Court.

5. In the result, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

18.12.2023

Index :Yes/No

Neutral Citation :Yes/No

AT

To

The XII Asst. City Civil Judge, Chennai.



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T.V.THAMILSELVI, J.

AT

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