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C.R.P(MD).No.928 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.04.2023

Pronounced on : 07.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE P.VADAMALAI**

C.R.P(MD).No.928 of 2018

Subramanian

... Petitioner /Plaintiff

Vs.

Sivaraj

... Respondent/Defendant

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 16.09.2017 made in I.A.No.822 of 2017 in O.S.No.125 of 2016 on the file of the District Munsif Court, Thuraiyur.

For Petitioner : Mr.PT.S.Narendravasan

For Respondent : Mr.K.M.Karunakaran

**ORDER**

This Civil Revision Petition is filed against the fair order and decreetal order dated 16.09.2017 passed in I.A.No.822 of 2017 in O.S.No.125 of 2016 on the file of the District Munsif Court, Thuraiyur.



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2. The brief facts of the case:

The revision petitioner is the petitioner in I.A.No.822 of 2017 in O.S.No.125 of 2016 on the file of the District Munsif Court, Thuraiyur. The petitioner is the plaintiff in O.S.No.125 of 2016, which is filed for declaration that he is entitled to the suit property and consequent permanent injunction. The defendant has filed a written statement. Thereafter, the plaintiff wanted to file the reply statement and hence, he filed a petition in I.A.No.822 of 2017 in O.S.No.125 of 2016. The defendant resisted the said petition. After hearing both, the Trial Court has dismissed the said petition on 16.09.2017. Aggrieved by the order of the Trial Court, the petitioner has filed this Civil Revision Petition.

3. Heard both sides and perused the records in this Civil Revision Petition.

4. The learned counsel appearing for the revision petitioner has submitted that the petitioner filed the suit for declaration and injunction. Along with the suit, he also filed the petition in I.A.No.623 of 2016 for temporary injunction. The defendant has filed the written statement alleging certain documents. Therefore, the petitioner wanted to file a reply statement for the plaint as well as in the interlocutory application. The Trial Court has held that the petitioner could let in evidence what he wanted to state in the



reply statement. The learned counsel argued that without pleading evidence could not be adduced. Therefore, the impugned order of the Trial Court is liable to be set aside.

5. Per contra, the learned counsel for the respondent contended that the petitioner has to prove his case and he cannot take a plea of the defendants as his case. The petitioner cannot question the documents which are in support of the defendant. The Trial Court has rightly held that the petitioner can let in evidence during trial either to prove his case or to disprove defence. The petitioner has filed the petition to drag on the proceedings. Therefore, this Civil Revision Petition may be dismissed.

6. On hearing both and on perusal of order of Trial Court, it is clear that the petitioner has filed the main suit and the defendant filed his written statement and now, the suit is pending for trial. At this stage, the petitioner has filed the petition to receive a reply statement. The Trial Court has held in its order that the petitioner could let in evidence as a reply to the written statement. The observation of the Trial Court is not correct. As rightly argued by the learned counsel for the petitioner, without pleading a party to the suit cannot adduce evidence, which is the principle of law. Therefore, the impugned order of the Trial Court is not correct and the same is liable to be interfered by way of this Civil Revision Petition.



C.R.P(MD).No.928 of 2018

7. In the result, this Civil Revision Petition is allowed. The order of the Trial Court passed in I.A.No.822 of 2017 in O.S.No.125 of 2016 on the file of the District Munsif Court, Thuraiyur, is set aside and the said petition in I.A.No.822 of 2017 in O.S.No.125 of 2016 stands allowed. No costs.

07.07.2023

NCC : Yes/No  
Index : Yes/No  
Internet : Yes/No  
vsd

To

- 1.The District Munsif Court,  
Thuraiyur.
- 2.The Section Officer,  
Vernacular Records,  
Madurai Bench of Madras High Court,  
Madurai.



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**P.VADAMALAI, J.**

vsd

Pre - Delivery Order made in  
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