



C.R.P.(MD).No.1825 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD)No.1825 of 2019

and

C.M.P(MD) No.9412 of 2019

K.Thavamani

... Petitioner/Petitioner/Plaintiff

-VS-

M.Saranya

... Respondent/Respondent/
Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and Executable order made in I.A.No. 212 of 2019 in O.S.No.138 of 2018, dated 27.08.2019 on the file of the District Munsif, Vadipatti.

For Petitioner : Mr.S.Chandrasekaran

For Respondent : Mr.E.Murugan



C.R.P.(MD).No.1825 of 2019

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ORDER

The present Civil Revision Petition has been filed by the petitioner under Article 227 of the Constitution of India, against the fair and Executable order made in I.A.No.212 of 2019 in O.S.No.138 of 2018, dated 27.08.2019 on the file of the District Munsif, Vadipatti.

2. The petitioner herein is the plaintiff and the respondent herein is the defendant before the Court below.

3. For the sake of convenience, the parties will be referred to as per the litigative status before the trial Court.

4. It appears that the petitioner/plaintiff has filed the suit for the relief of specific performance. In which, the defendant appears to have filed a written statement on 21.03.2019. The plaintiff felt that the written statement contains a false and misleading averments. Therefore, he moved an application to receive the reply statement, which was ultimately dismissed by the Court below on the ground that the pleadings put forth in the reply



C.R.P.(MD).No.1825 of 2019

statement is inconsistent with the pleadings of the plaintiff. Aggrieved with the said order, the plaintiff is before this Court.

5. The learned counsel appearing for the petitioner would submit that the petitioner moved an application to seek leave of the Court to receive the reply statement immediately. However, the Court below has gone into the merits of the matter and has curtailed the petitioner from filing the reply statement. Hence, he prayed to allow this revision petition.

6. Per contra, the learned counsel appearing for the respondent would submit that there are earlier suits and that the plaintiff has contended that the suit property is “Nanja land”. However, while filing the reply statement, he has put forth the inconsistent pleading that the suit property is a “dry land” and that they are running “Stone Crusher Unit”. Therefore, the findings of the Court need not be interfered with as it was well considered order.

7. This Court has given anxious consideration to the submissions of the learned counsel on either side.



C.R.P.(MD).No.1825 of 2019

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8. The very application has been filed only to receive the reply statement. It is settled principle of law that at the threshold, we cannot decide the matter on merits unless there is an apparent inconsistency. Here, the only inconsistency, according to the defendant, is that the plaintiff in his plaint stated that the suit property was “Nanja land”. However, in the reply statement, he put forth the contention that the suit property is a “dry land” and that they are running “Stone Crusher Unit”. At the same time, the time for filing the reply statement from the date of filing of the written statement, is only a matter of 15 days.

9. Therefore, considering the peculiar circumstances of the case that no pleadings are withdrawn from plaint and also considering the fact that the very pleadings cannot be curtailed at the threshold by going into the merits of the matter, this Court is of the view that the very order passed by the Court below is liable to be interfered with.

10. In the result, this Civil Revision Petition is **allowed** thereby the dismissal order passed in I.A.No.212 of 2019 is set aside, and the same is allowed as prayed for. Considering the long pendency of the connected suit in



C.R.P.(MD).No.1825 of 2019

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O.S.No.303 of 2008, the trial Court is directed to dispose of the case as expeditiously as possible, preferably within a period of six months from the date of receipt of the copy of this order. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

11.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The District Munsif,
Vadipatti.



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C.R.P.(MD).No.1825 of 2019

C.KUMARAPPAN,J.

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C.R.P.(MD)No.1825 of 2019

11.09.2023