



C.R.P.(MD)No.2475 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.2475 of 2023

and

C.M.P.(MD)No.12897 of 2023

P.Nainar

... Petitioner/
Petitioner/
Defendant

Vs.

A.A.Pius

... Respondent/
Respondent/
Plaintiff

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order made in I.A.No.3 of 2023 in O.S.No.118 of 2020 by the Sub Court, Nanguneri dated 16.06.2023.

For Petitioner : Mr.C.Mayilvahana Rajendran

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.3 of 2023 in O.S.No.118 of 2020 dated 16.06.2023 on the file of



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the Sub Court, Nanguneri, dismissing the application seeking permission to file the counter claim.

2. The respondent/plaintiff has laid the above suit. When the case was posted for cross-examination of P.W.1, the above application came to be filed.

3. The learned counsel appearing for the revision petitioner would submit that the revision petitioner/defendant has laid the counter claim for the cause of action, which arose prior to the filing of the suit itself.

4. But as rightly observed by the learned trial Judge, the Hon'ble Supreme Court in *Ashok Kumar Kalra Vs. Wing Cdr. Surendra Agnihotri and others* reported in (2020) 2 MLJ 189 has settled the legal position that counter claim can be received after filing of the written statement, but not after the framing of issues. In the case on hand, as already pointed out, issues have already been framed and the case is in part-heard stage. Hence, the impugned order dismissing the application cannot be found fault with. Hence, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.



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5. In the result, this Civil Revision Petition is dismissed.

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Consequently, connected Miscellaneous Petition is closed. No costs.

30.10.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Sub Court,
Nanguneri.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
C.R.P.(MD)No.2475 of 2023
and
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