



WEB COPY



CRP No.544 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.544 of 2024

Selvaramu

... Petitioner

Vs.

Angamuthu (died)
Ruckumani (died)

1.Kalaivani
2.Manoj Kumar

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order in IA No.6 of 2023 in OS No.135 of 2001 dated 30.10.2023 on the file of the Principal Subordinate Judge at Tiruppur.

For Petitioner : Mr.K.Myilsamy

For Respondents :Mr.S.Saravanakumar



CRP No.544 of 2024

WEB COPY

ORDER

The civil revision petition is filed to set aside the fair and decretal order in IA No.6 of 2023 in OS No.135 of 2001 dated 30.10.2023 on the file of the Principal Subordinate Judge at Tiruppur.

2. The revision petition is the plaintiff and the respondents are defendants in OS No.135 of 2001 on the file of the Principal Subordinate Judge, Tiruppur. The petitioner/plaintiff filed the suit for partition and separate possession against the respondents/defendants. Pending trial, the fourth defendant/second respondent was impleaded as per order in IA No.1300 of 2008. After impleading, he filed a written statement raising some allegation with regard to plaintiff's claim on 03.07.2023. In this regard, the plaintiff wanted to file a reply statement. Therefore, he filed the instant application in IA No.6 of 2023 to receive the reply statement, which was dismissed by the learned Judge by order dated 30.10.2023. Challenging the said order, the petitioner has filed the present civil revision petition.



CRP No.544 of 2024

WEB COPY

3. Learned counsel for the petitioner submitted that the newly impleaded party had filed written statement only on 03.07.2023. Thereafter, the petitioner filed this petition to receive the reply statement on 27.09.2023, which was rejected by the learned judge without assigning any valid reason. Hence, seeking to allow the Revision.

4. Learned counsel for the respondent supported the impugned order and seeking to dismiss the revision.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. The revision petition is the plaintiff and the respondents are defendants in OS No.135 of 2001 on the file of the Principal Subordinate Judge, Tiruppur. The petitioner/plaintiff filed the suit for partition and separate possession against the respondents/defendants. Pending trial, the fourth defendant/second respondent was impleaded as per order in IA



CRP No.544 of 2024

No.1300 of 2008. After impleading, he filed a written statement raising some allegation with regard to plaintiff's claim on 03.07.2023. This fact also not disputed by the parties. Under these circumstances, to meet the averment raised in the additional written statement, a chance has to be given to the petitioner/plaintiff to file reply statement. The trial court failed to consider the fact that the additional written statement has been filed only on 03.07.2023 so it is unfair to deny the plaintiff's application to receive reply statement to meet the averment raised in the additional written statement. Therefore, the impugned order is unsustainable and it is liable to be set aside. Accordingly, the order dated 30.10.2023 is set aside. This Civil Revision Petition is allowed. The trial court is directed to receive the reply statement filed by the plaintiff and to proceed the case and decide on merit. There shall be no order as to costs. Consequently, CMP No.2647 of 2024 is closed.

05.03.2024

Index: Yes/No
Internet: Yes/No
mrn

4 of 6



CRP No.544 of 2024

WEB COPY
To
The Principal Subordinate Judge at Tiruppur.



WEB COPY



CRP No.544 of 2024

V.SIVAGNANAM, J.
mrn

CRP No.544 of 2024

05.03.2024