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CRP.No.360 & 361 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.03.2024

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.Nos.360 & 361 of 2022

and

C.M.P.Nos.1861 & 1864 of 2022

C.R.P.No.360 of 2022

T.V.Venkatasamy

S/o T.V.Varadharajulu Chettiyar

... Petitioner

vs.

K.Bhuvaneshwari

W/o P.Krishnamoorthy

...Respondent

Prayer in C.R.P.No.360 of 2022 : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 30.11.2021 of the learned District Judge, Additional District Court, (Fast Track Court), Kancheepuram passed in I.A.No.1 of 2021 in O.S.No.24 of 2015.

C.R.P.No.361 of 2022

T.V.Venkatasamy

S/o T.V.Varadharajulu Chettiyar

... Petitioner

vs.



P.Krishnamoorthy
S/o M.Perumal Naidu

...Respondent

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Prayer in C.R.P.No.361 of 2022 : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 30.11.2021 of the learned District Judge, Additional District Court, (Fast Track Court), Kancheepuram passed in I.A.No.1 of 2021 in O.S.No.17 of 2015

For Petitioner in
both the CRPs : Mr.N.Manokaran
for Mr.K.R.Arun Shabari

For Respondent in
both the CRPs : Mr.K.Murali

COMMON ORDER

These civil revision petitions are filed challenging the fair and decretal order dated 30.11.2021 passed by the learned District Judge, Additional District Court, (Fast Track Court), Kancheepuram, in I.A.No.1 of 2021 in O.S.No.24 of 2015 and I.A.No.1 of 2021 in O.S.No.17 of 2015 respectively, dismissing the applications seeking permission to file additional written statements.

2. The case of the petitioner is that two simple mortgages dated 04.03.2003, for Rs.6,00,000/- and for Rs.700,000/- respectively, were



registered between the respondent and the petitioner due to threat by one Narasimharajan against the petitioner's wife Pankajam, who had some money transactions with the said Narasimharajan. On 06.01.2014, discharge receipts were prepared, but the same was not registered, as the said Narsimharajan brought his uncle P.Krishnamoorthy and the respondent, who is the sister of the said Krishnamoorthy along with several others to the Joint Sub Registrar Office and after receiving the cash amount of Rs.10,00,000/- and postdated cheque (18.01.2014) for Rs.3,00,000/-, cheated the petitioner by not having the discharge of mortgage registered. On 07.01.2014, a Police complaint was given by the petitioner to Superintendent of Police and a case was registered in Crime No.32/2014 dated 12.01.2014 against Narasimharajan, Bhuvaneshwari, Krishnamoorthy and others. On 24.02.2015, the respondent in C.R.P.No.360/2022 filed O.S.No.24 of 2015 before the District Court against the petitioner for recovery of a sum of Rs.23,24,000/- and on 04.02.2015, the respondent in CRP.No.361/2022 filed O.S.No.17 of 2015 for recovery of Rs.26,95,933/-. The petitioner filed the written statement in both the suits. On 03.02.2021, the respondent in both the CRP commenced trial by examining herself/himself as PW1 and marked Ex.A1. At that time, the petitioner herein filed I.A.No1/2021 in both the



suits for receiving additional written statement on tracing the discharge receipt which was not registered. On 30.11.2021, the trial Court dismissed the said I.As. Hence, the present civil revision petitions.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

4. The husband and wife have filed the suit in O.S.No.17 of 2015 and O.S.No.24 of 2015 respectively against the same defendant/petitioner herein.

5. According to the petitioner/defendant, he had already pleaded in the original written statement that he had discharged the debts and that the respondent had come to the Sub Registrar office to register the said discharge and therefore, no new plea is sought to be introduced in the additional written statement. Immediately after tracing the discharge receipt, the petitioner has come with the plea to receive the additional written statement and he has not caused any delay in commencement of the trial. Only the facts need to be pleaded and there is no contradiction between the earlier pleadings and the pleadings in the additional written



statement.

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6. The learned trial Judge had rejected the I.As on the ground that the discharge receipt is an unregistered document and after examining the respondent as P.W.1 in chief, the filing of additional written statement is filed only to fulfill the lacunae in the case of the petitioner which cannot be accepted and after a lapse of six years, if the additional written statement is allowed, it will protract the case proceedings further.

7. It is one of the cardinal principles of rules of natural justice that full opportunity should be afforded to the parties to produce their evidence and state their case before the Court and the Court ought to exercise discretion in favour of production of evidence. No doubt, when a party is using dilatory tactics and tries to stall the proceedings by producing additional documents which evidence is not relevant, the Court is well within its power to refuse production of such evidence. But the facts as found in the present case makes it clear that no such default has been committed by the petitioner/ defendant and the reason stated by the petitioner for not filing those documents at the time of presentation of the written statement appears to be reasonable and acceptable. Therefore,



this Court is of the view that the petitioner may be permitted to file additional written statement. Subject to proof and relevancy, the petitioner may be permitted to mark the documents.

8. Therefore, the orders passed by the learned District Judge, Additional District Court, (Fast Track Court), Kancheepuram, passed in I.A.No.1 of 2021 in O.S.No.24 of 2015 and I.A.No.1 of 2021 in O.S.No.17 of 2015, are set aside. The petitioner is permitted to file the additional written statement and the trial Court is directed to receive the same and mark the documents, subject to proof and relevancy. If any objections are raised by the respondents/ plaintiffs with regard to the admissibility of those documents, the same shall be placed on record subject to such objection be decided at the stage of final disposal of the suits. Accordingly, both the Civil Revision Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

07.03.2024

Index : Yes/No
Speaking /Non speaking order
vsi

To



The District Judge,
Additional District Court,
(Fast Track Court),
Kancheepuram

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J.NISHA BANU, J.

vsi

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