



C.R.P.No.1082 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1082 of 2024

R.Suresh

... Petitioner

Vs.

Rudraju Markandayulu

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair order and decreetal order dated 15.12.2023 in I.A.No.3 of 2023 in O.S.No.35 of 2016 on the file of District Munsif Court,Tiruttani, Tiruvallur District and permit this petitioner to file Additional Written Statement.

For Petitioner

:Mr.S.Salai Gavana Geethan



ORDER

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The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner/defendant seeking leave of the Court to file additional written statement at the stage of recording the defendant's side evidence.

2. The respondent herein/plaintiff filed a suit seeking declaration of his right and interest over the suit “B” schedule property and for direction to petitioner/defendant to vacate and deliver the vacant possession of the same and remove the super structures.

3. The petitioner herein filed a written statement and resisted the suit *inter alia* contending that the building plan was approved by the local authority in the year 2006 and he had started construction in the year 2008.

4. Now, the trial in the case is already commenced. Recording of evidence on the side of plaintiff was over and the matter was posted for



recording of evidence on the side of defendant. At this juncture, the present application has been filed by the petitioner seeking leave of the Court to file additional written statement.

5. The learned counsel for the petitioner submitted that the petitioner/defendant completed the construction in the year 2008 itself and therefore, the suit filed by the respondent in the year 2016 is hopelessly barred by limitation. In order to raise the plea of limitation, the petitioner wants to file additional written statement.

6. The plea of limitation is a matter between the Court and the plaintiff. In view of Section 3 of Limitation Act, even if the limitation is not set up as defence, the Court is bound to go into the question of limitation. The petitioner need not file additional written statement in order to raise the plea of limitation. It was stated by the petitioner that construction was commenced in the year 2008 itself. In such circumstances, the submission made by the learned counsel for the petitioner that in order to raise the plea of limitation, additional written statement is required is not acceptable to this Court.



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7. In the affidavit filed in support of the petition seeking leave of the Court to file additional written statement, the petitioner has not assigned any convincing reason for his failure to file additional written statement prior to commencement of the trial.

8. The evidence on the side of the plaintiff is already recorded and the matter is posted for recording the evidence of the defendant side. In these circumstances, I do not find any error in the order passed by the Trial Court. Accordingly, the Civil Revision Petition stands dismissed. No costs.

25.03.2024

Index : Yes / No
Internet : Yes / No
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To
The District Munsif Court, Tiruttani, Tiruvallur District



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S.SOUNTHAR, J.

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