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C.R.P.(PD).No.999 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.999 of 2024
and C.M.P.No.5117 of 2024

S.Muruganandham

... Petitioner

VS

1.M.Santhakumar

2.S.Murthy

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set-aside the order dated 04.01.2024 in I.A.No.2 of 2023 in O.S.No.677 of 2011 on the file of the Principal District Munsif, Erode by allowing this Revision.

For Petitioner : K.J.Parthasarathy

For Respondents : Mr.S.Kaithamalai Kumaran

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner/1st defendant seeking leave of the Court to file the additional written statement.

2. The respondents herein filed a suit for declaration of title and



injunction against the petitioner. The suit was resisted by petitioner on the ground that he and his brother-2nd defendant had been in possession and enjoyment of the suit property. It was also stated that the petitioner herein already filed a suit for partition against his brother/2nd defendant and the same is tried along with present suit. When the present suit is at the stage of PW.1 cross, the present application has been filed by the petitioner seeking leave of the Court to file additional written statement.

3. It is the case of the petitioner that pending suit, the respondents committed trespass into the suit property and dispossessed the petitioner. By way of additional written statement, the petitioner wants to incorporate the said subsequent events in his pleadings. It is also stated by the petitioner that in case of dispossession pending suit, the petitioner is entitled to restoration of possession even without prayer. The said application was dismissed by the Trial Court on the ground that additional written statement filed by the petitioner would not help the Court to decide the real controversy between the parties. Aggrieved by the same, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner submitted that the



suit was resisted by the petitioner on the ground that the respondents were not

in possession of the suit property on the date of filing of the suit.

Subsequently, pending suit, the dispossession had occurred and the petitioner wants to incorporate the said subsequent event in the pleadings. If the petitioner is not allowed to file additional written statement, it would result in multiplicity of proceedings.

5. The learned counsel appearing for the respondents submitted that the present suit is of the year 2011 and the same was decreed *ex parte* earlier and at the instance of the petitioner it was set aside. Now, the suit is posted for cross examination of PW.1. The learned counsel further submitted that main aim of the petitioner is only to drag on the proceedings and hence, the Trial Court rightly dismissed the application.

6. By filing an additional written statement, the petitioner wants to incorporate the subsequent event, which according to him had taken place pending suit. The filing of the additional written statement to enable the petitioner to lead evidence with regard to the alleged dispossession pending



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suit. Whether the petitioner was dispossessed pending suit or not is a question of fact, which can be decided only at the time of trial. However, the decision thereon would have an impact on the final outcome of the suit. Therefore, the reasoning given by the Trial Court, as if, the averments made in the additional written statement with regard to the dispossession of the petitioner will not help the Court to decide the real controversy between the parties is not correct.

7. The allowing of the petition to file additional written statement would not cause any prejudice to the respondents. However, the same will enable the Court to decide the controversy between the parties and mould the relief. In such circumstances, this Court feels leave shall be granted to the petitioner to file additional written statement, subject to the right of the respondents to file reply statement.

8. In view of the same, the Civil Revision Petition stands allowed and the petitioner is permitted to file his additional written statement. The respondents are also entitled to file reply statement in response to the



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averments made in the additional written statement.

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9. Having regard to the fact the present suit is of the year 2011 and the partition suit is of the year 2010, this Court is inclined to issue a direction to the Trial Court to dispose of both the suits as expeditiously as possible. No costs. Consequently, the connected civil miscellaneous petition is closed.

19.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The Principal District Munsif,
Erode.



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S.SOUNTHAR, J.

dm

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