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C.R.P. No. 3678 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

CORAM

THE HONOURABLE MR. JUSTICE P.DHANABAL

C.R.P. No. 3678 of 2022
and
C.M.P. No. 19482 of 2022

1. Rama Devi
W/o. K.Srinivasa Reddy
 2. K.S.Vidhan Shankar
S/o. K.Srinivasa Reddy
- ... Petitioners / Respondents / Defendants

Vs.

1. Asha Latha
W/o. Kuppusamy
 2. Sumathi
W/o. Narayana Raj
 3. Sridevi
W/o. V.N.Mohan
- ... Respondents / Petitioners / Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, 1950, to set aside the fair and decreetal order dated 06.09.2022 passed in I.A. No. 11 of 2022 in O.S. No. 224 of 2014 by the Additional District Munsif Court, Tiruvallur.

For Petitioners : Mr. B.Prabu

For Respondents : Mr. A.R.Suresh



C.R.P. No. 3678 of 2022

ORDER

This Civil Revision Petition has been preferred as against the order dated 06.09.2022 passed in I.A. No. 11 of 2022 in O.S. No. 224 of 2014 on the file of the Additional District Munsif Court, Tiruvallur, wherein, the respondents herein filed petition before the Trial Court to reopen the case for receiving the reply statement of the plaintiff.

2. The brief facts of the case which are necessary to dispose the Civil Revision Petition are as follows:-

The respondents are the plaintiffs in the main suit. Originally, the suit was filed by one Jagannatha Reddy and K.Suseela. During the pendency of the suit, they died. The present respondents are their legal heirs. The petitioners are also the legal heirs of one deceased K.Srinivasa Reddy, who was the defendant in the main suit, who died during the pendency of the suit. The defendants have already filed counter claim. For that counter claim, no reply statement was filed by the respondents/plaintiffs herein. Therefore, now filed the petition to reopen the case for receiving the reply statement of the plaintiffs. The said petition was allowed by the Trial Court. Against which, the present Civil Revision Petition is filed.



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3. The learned counsel appearing for the petitioners would contend that the petitioners are the defendants in the main suit and originally the suit was filed by one Jagannatha Reddy and K.Suseela as against these petitioners' father viz., K.Srinivasa Reddy. During the pendency of the suit, the said Jagannatha Reddy and K.K.Suseela, who are the plaintiffs in the main suit and the said Jagannatha Reddy, who was the defendant in the main suit also died. Thereafter, the legal heirs of the respective parties have been impleaded in the suit. Already, the defendants in the suit have filed counter claim. In that counter claim, no reply statement was filed by the plaintiffs. Therefore, the plaintiffs have filed petition before the Trial Court and the Trial Court has allowed the same. The Trial Court failed to consider that the plaintiffs have not filed reply statement for that counter claim for the past 5 years. The counter claim was filed on 23.08.2017 and thereafter, the case was posted for filing reply statement for the counter claim on various dates and lastly posted on 13.04.2018. But the respondents herein have not filed any reply statement and thereby, it was closed. Thereafter, issues were framed and the case was posted for trial and already this Court in C.R.P. No. 12 of 2017 directed the Trial Court to dispose the case within a period of 6 months and thereafter, proof affidavit of P.W.1 was filed and documents were marked on the side of the plaintiffs. Thereafter, the 1st plaintiff died on 02.05.2021 and the 1st



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defendant died on 25.07.2021. Thereafter, the legal heirs of the 1st plaintiff were impleaded as plaintiffs and the legal heirs of the 1st defendant were already impleaded as parties to the suit. The counter claim was also amended on 16.11.2021 and thereafter, the counter claim was posted for filing of additional reply statement if any and the plaintiffs have also endorsed that they have no additional reply statement to the counter claim. Thereafter, the plaintiffs filed petition to reopen the evidence of P.W.1 / deceased plaintiff and filed fresh proof affidavit. While pending proceedings, the 2nd plaintiff also died on 27.02.2022 and the plaint was also amended. Now, the respondents, after a long gap filed the petition to reopen the case for filing reply statement. The Trial Court, without considering the same, simply allowed the petition. Therefore, the order passed by the Trial Court is liable to be set aside.

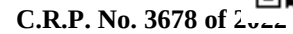
4. The learned counsel appearing for the respondents would contend that originally the suit was filed by the predecessors and after the demise of the 1st and 2nd plaintiffs, they have been impleaded as plaintiffs in the suit and thereafter only, they came to know about the non filing of reply statement to that counter claim. Thereby, they filed petition to reopen the case for receiving the reply statement. By receiving the reply statement, no prejudice



would be caused to the other side. Therefore, the Trial Court also, after elaborate discussion, correctly allowed the petition. Therefore, the present Civil Revision Petition is liable to be dismissed.

5. This Court heard both sides and perused the materials placed on record.

6. In this case, there is no dispute that already the pleadings were completed and thereafter, the case was posted for examination of witnesses. Already, P.W.1 was examined and thereafter, due to his death, the fresh proof affidavit of another plaintiff was filed and the same was also recorded. After the demise of the parties, the plaint as well as the counter claim were amended. At that time also these respondents/plaintiffs have not filed any reply statement for the counter claim. However, the Trial Court allowed the petition by holding that the respondents/plaintiffs in the counter claim have not been set *ex-parte*. The plaintiffs in the counter claim have not filed any reply statement. As per Order VIII Rule 6(c) of the CPC, if the reply statement is not filed for the counter claim, the Court may pronounce the judgments. Therefore, due to non filing of reply statement, the Court closed the opportunity in filing reply statement for the counter claim. Therefore, in order to give chance to the parties, the said stage was reopened. The reply



7. At this juncture, the learned counsel appearing for the petitioners would contend that already the prayer in the counter claim was granted by this Court in W.P. No. 28949 of 2014 and the only prayer in respect of permanent injunction alone has to be decided by the Court. Therefore, the petitioners can agitate the issue before the Trial Court through evidence and in order to give an opportunity to the plaintiffs, the Trial Court rightly granted permission to reopen the case for receiving of reply statement for the counter claim. This is the petition to reopen the case for receiving of reply statement for the counter claim and there is no reference about the subsequent application filed to receive reply statement. However, the learned counsel appearing for the respondents would contend that the reply statement was already received by the Trial Court and the case was posted for framing appropriate issues. Therefore, once the case crossed the next stage after filing reply statement for counter claim, this Court need not interfere with the order passed by the Trial Court.



C.R.P. No. 3678 of 2022

WEB COPY

8. In view of the aforesaid discussions, this Court is of the opinion that the Civil Revision Petition has no merits and deserves to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

22.07.2024

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
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To

The Additional District Munsif Court,
Tiruvallur.



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C.R.P. No. 3678 of 2022

P.DHANABAL, J.,

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