



C.R.P.(PD).No.3859 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE P. DHANABAL

C.R.P.(PD).No.3859 of 2022

and

C.M.P.No.20255 of 2022

1. Annapoorani

2. M.Rose

3. M.Manoharan

4. M.Suyaraj

... Petitioners

vs.

G.Radhakrishnan

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the impugned order dated 23.09.2022 passed by the District Munsif Court, Sriperumbuthur in I.A.No.537 of 2019 in O.S.No.371 of 2012 and allow the same permitting the petitioners to file the Additional Written Statement.

For Petitioners : Mr.S.Namasivayam

For Respondent : Mr.S.Pattabiraman



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ORDER

This Civil Revision Petition has been preferred as against the order passed in I.A.No.537 of 2019 in O.S.No.371 of 2012 on the file of the District Munsif, Sriperumbuthur, wherein, these petitioners herein have filed a petition under Order 8 Rule 9 to grant leave to file additional written statement. The said petition was dismissed as against which, the present Civil Revision Petition is filed.

2. The case of the petitioners is that they are the defendants in the main suit and the main suit was filed for the relief of declaration and recovery of possession and to declare that the Settlement deeds are null and void. Already they have filed written statement and P.W.1 was already examined. At the time of cross examination of P.W.1, he denied the execution of unregistered Settlement deed, dated 21.03.1971 executed by the respondent/plaintiff's mother in favour of the first petitioner/first defendant. Therefore, they filed additional written statement to that effect and the same has to be received.



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3. The case of the respondent is that already the case is posted for defendants' side witnesses after completion of plaintiff's side evidences. The petitioners' have produced the unregistered Sale deed, dated 21.03.1971 and the same cannot be considered as evidence for any purpose. Already, they have filed written statement and also elaborately cross examined the plaintiff's side witnesses. While so, now, at this stage of defendants' side evidence, only to delay the proceedings, they have filed this petition. Therefore, the petition is liable to be dismissed.

4. Before the Trial Court, no oral or documentary evidence adduced on either side. After hearing both sides, the Trial Court dismissed the petition.

5. The learned counsel appearing for the petitioners would contend that the petitioners are the defendants in the main suit and they already filed written statement. While cross examination of P.W.1, he denied the unregistered Sale deed, dated 21.03.1971 executed by the respondent/plaintiff's mother in favour of the first petitioner/first defendant. Therefore, they have to file additional written statement and by receiving the additional written statement no prejudice would be caused to the other side.



But the Trial Court failed to consider the same and dismissed the petition by holding that the petitioners seek to introduce totally a new case raising new please in the additional written statement and the additional written statement will be of no help to this Court to decide the real controversy between the parties. The above said observation of the Trial Court is unsustainable and the same is liable to be set aside.

6. The learned counsel appearing for the respondents would contend that the respondents have filed a suit for the relief of declaration and recovery of possession and also to declare the Settlement deeds as null and void. The petitioners herein have filed a written statement and thereafter, plaintiff's side witnesses were examined and they were elaborately cross examined by the petitioners. Thereafter, when the matter is posted for defendants' side evidence, they filed a petition to receive the additional written statement stating that the unregistered Sale deed, dated 21.03.1971 was denied by P.W.1. Since the said document is unregistered Sale deed, it cannot be considered as evidence for any purpose and therefore, the present petition was filed only to delay the proceedings. The Trial Court also after elaborate discussion, correctly dismissed the petition stating that the additional written



statement is no way helpful to the Court to decide the real controversy between the parties and they introduce totally a new case raising many please in the additional written statement. Therefore, the order passed by the Trial Court is in order and the present Revision Petition is liable to be dismissed.

7. This Court heard both sides and also perused the records.

8. In this case, the petitioners being the defendants have filed a petition before the Trial Court to receive the additional written statement and the same was dismissed. It is an admitted fact that already the petitioners have filed written statement and the plaintiff's side witnesses were examined and the evidence of plaintiff's side was closed and thereafter, the case was posted to defendants' side witness. At this stage, the petitioners have filed a petition to receive the additional written statement. According to the petitioners, at the time of cross examination, P.W.1 had denied the unregistered Sale deed, dated 21.03.1971 executed by the respondent/plaintiff's mother in favour of the first petitioner/first defendant and therefore, they have to file additional written statement. The petitioners in the additional written statement introduced a new case by raising many pleadings. The petitioners have not



stated any valid reasons to receive the additional written statement and now filed petition after a long gap, that too, at the stage when the case was posted for defendant's side evidence.

9. The Trial Court also after relying judgment of the Hon'ble Supreme Court in *Olympic Industries vs. Mulla Hussainy Bhai Mulla Akverally and Others* reported in **2009 (15) SCC 528** dismissed the petition stating that no prejudice should be caused to the other side such amendment or acceptance of additional counter statement and also after referring the judgment of the Hon'ble Supreme Court in *Usha Balashaheb Swami and Others vs Kiran Appaso Swami and Others* reported in **2007 (5) SCC 602** stating that additional counter statement can be filed to add a new ground of defence or substitute or alter the defence or even take inconsistent pleas in the counter statement and permission for filing additional counter statement may be granted as long as the pleadings do not result in causing grave injustice and irreparable prejudice to the plaintiff or displacing him completely.



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10. In the case on hand, already these petitioners have filed the written statement and thereafter, plaintiff's side witnesses were cross examined and now the case is posted for defendant's side evidences. Therefore, at this stage, without any valid reasons, the additional written statement cannot be received. Therefore, the Trial Court in this context, after elaborate discussion passed a reasoned order by dismissing the petition. Therefore, the order passed by the Trial Court is proper and it does not warrant interference.

11. In view of the above said discussion, this Court is of the opinion that this Civil Revision Petition has no merits and the same has to be dismissed.

12. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition stands closed.

01.08.2024

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Index :Yes/No
Internet : Yes/No
Neutral Citation :Yes/No

P. DHANABAL, J.,



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To:

- 1.The District Munsif Judge,
Sriperumbuthur.
- 2.The Section Officer,
V.R.Section,
High Court of Madras.

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