



WEB COPY



CRP.No.3960 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.04.2024

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

CRP.No.3960 of 2022
and CMP.No.20626 of 2022

Lakshmi (dead)
Rangasamy

...2nd Petitioner/defendant

Vs.

Poongodi

...Respondent/plaintiff

PRAYER: Civil Revision Petition is filed under section 227 of the Constitution of India, to set aside the fair and decreetal order dated 13.07.2022 passed in I.A.No.163 of 2022 in O.S.No.403 of 2018 on the file of the Sub Court, Palladam.

For Petitioner : Mr.K.Govi Ganesan
For Respondent : Mr.R.Agilesh

ORDER

This Civil Revision Petition is filed praying to set aside the order dated 13.07.2022 passed in I.A.No.163 of 2022 in O.S.No.403 of 2018 on the file of the Sub Court, Palladam. The said I.A was filed by the plaintiff praying to receive the reply statement under Order 8 Rule 9 of CPC. The trial Court allowed the said application. As against that order, the present civil revision petition has been filed by the 2nd defendant-revision petitioner herein.

2. The respondent herein is the plaintiff in the main suit. The revision



CRP.No.3960 of 2022

petitioner/2nd defendant filed written statement and pleaded about the Will.

According to the plaintiff, the written statement averments have to be denied by filing the reply statement. Therefore, plaintiff filed I.A.No.163 of 2022 before the trial Court. In the said I.A the 2nd defendant filed counter denying the averments mentioned in the reply statement wherein it is stated that plaintiff's father sold his ancestral property at Thamaraikulam, Avinashi Taluk; the 2nd defendant purchased the suit property in the year 1988; hence the plaintiff is entitled to share in the suit property. In the reply statement, the plaintiff stated that originally she filed partition suit stating that suit property is absolute property of her mother. Now taken new stand that the suit properties are ancestral properties. According to the revision petitioner/2nd defendant, the said averments by the plaintiff in the reply statement will change the character and nature of the suit and it is totally inconsistent to the plaint pleadings, hence, the I.A is not maintainable.

3. The trial Court after hearing both sides allowed the I.A.No.163 of 2022. Challenging the same, this revision petition is filed by the 2nd defendant.

4. The learned counsel for the petitioner/2nd defendant would contend that the plaintiff in the reply statement had taken new stand that the suit properties are ancestral properties and the said statement will change the



CRP.No.3960 of 2022

character and nature of the suit and the same is totally inconsistent to the plaintiff pleadings. Therefore, the plaintiff is not permitted to file reply statement. But the trial Court without considering the said aspect allowed the I.A. The order of the trial Court is liable to be set aside.

5. The learned counsel for the respondent/plaintiff would contend that the 2nd defendant in the written statement pleaded about the Will and other things and the same is to be denied by the plaintiff by way of reply statement. Already in the plaint itself, the plaintiff pleaded about the nature of the suit. In order to clarify the same, the plaintiff filed the additional reply statement. Therefore, there is no new plea introduced. The reply statement will not change the nature and character of the suit. Therefore, the trial Court correctly allowed the I.A.163 of 2022. Hence the learned counsel prayed to dismiss the present revision petition.

6. This Court heard both sides and perused the records.

7. It is an admitted fact that the 2nd defendant pleaded in the written statement in respect of the Will dated 21.03.2007. I.A No.163 of 2022 has been filed by the plaintiff praying to permit to file reply statement. In the reply statement, the plaintiff also stated that the suit property is her ancestral



CRP.No.3960 of 2022

properties. But in the suit pleadings, she stated that the property absolutely belongs to her mother, according to the petitioner/defendant it is contra to the earlier pleadings. The only contention of the 2nd defendant is that the said plea is inconsistent to the plaint averments. However, the plaintiff in order to deny the Will, as alleged by the 2nd defendant, plaintiff has to be permitted to file reply statement. As far as nature of the property is concerned, it has to be decided by the trial Court. Therefore, the plea taken by the plaintiff in the reply statement would not cause any prejudice to the 2nd defendant. Therefore, the trial Court in order to give fair chance to the parties to put forth their stand, correctly allowed I.A.163 of 2022. In view of the above said reason, this court is of the considered opinion that there is no infirmity or perversity found in the impugned order passed by the trial Court. Hence the present civil revision petition has no merits and deserves to be dismissed.

8.Accordingly, this Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

29.04.2024

Index : Yes/No
Speaking order/non-speaking order
mpa

P.DHANABAL, J.,



WEB COPY



CRP.No.3960 of 2022

mpa

To
The Sub Court, Palladam.

CRP.No.3960 of 2022
and CMP.No.20626 of 2022

29.04.2024