



C.R.P(MD)No.848 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 17.04.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.848 of 2019

1.R.Perumal Reddiar (Died)

2.R.Dharmar Reddiar

3.Nagammal

4.Sennammal

5.Susila

... Petitioners

(Petitioners 3 to 5 are brought on record as legal heirs of the deceased first petitioner vide Court order, dated 12.07.2023 made in C.M.P(MD)No. 1081 of 2023 in C.R.P(MD)No.848 of 2019)

Vs.

1.Chellammal

2.Alamelu Ammal

3.Murugaiah

4.Ramasamy

5.Ramalakshmi

... Respondents

1/9



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*(Respondents 2 to 5 are not contesting parties,
hence notice on them may dispense with)*

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PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.174 of 2018 in O.S.No.280 of 2011, dated 22.04.2019 on the file of the District Munsif Court, Kovilpatti by allowing this Civil Revision Petition.

For Petitioner : Mr.H.Arumugam

For R-1 : Mr.R.J.Karthick
R-2 to R-5 : Dispensed with

ORDER

The defendants 1 and 2 in O.S.No.280 of 2011 on the file of the District Munsif Court, Kovilpatti are the revision petitioners. The first respondent herein as plaintiff has filed O.S.No.280 of 2011 for the relief of declaration of title, permanent injunction and recovery of possession.

2. The defendants have filed a written statement on 05.06.2012. Thereafter, the defendants had filed I.A.No.253 of 2013 seeking the leave of the Court to receive documents Exhibits B.1 to B.6. The said



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application was allowed on 14.06.2013. The defendants filed another application in I.A.No.294 of 2013 seeking the permission of the Court to receive Exhibits B.7 to B.11. The said application was also allowed on 25.06.2013.

3. The plaintiff had filed I.A.No.1474 of 2014 and I.A.No.129 of 2017 seeking to amend the plaint. These two applications were allowed on 04.04.2016 and 12.07.2017 respectively. The plaintiff's side evidence was closed and the case was posted for letting in evidence on the side of the defendants. At this point of time, the plaintiff had filed I.A.No.174 of 2018 seeking the permission of the Court to file reply statement and for filing additional documents. This application was strongly resisted by the defendants. However, the Trial Court has proceeded to allow this application and permitted the plaintiff to file reply statement and receive the documents. This order is under challenge in the present revision petition by the defendants 1 and 2.



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4. According to the learned Counsel appearing for the revision petitioners, when the written statement was filed on 05.06.2012 and the documents were presented before the Court by the defendants even in June 2013, the present application filed on 05.02.2018, seeking the permission of the Court to file reply statement is highly belated and the Court ought not to have allowed the said application without assigning any reasons whatsoever. The learned Counsel appearing for the petitioner has further contended that, the documents which are proposed to be presented before the Court are downloaded copies of computer patta and therefore, the contention of the plaintiff that, they had traced these documents while cleaning the house during Pongal festival is not factually correct. Hence, he prayed for allowing the revision petition.

5. Per contra, the learned Counsel appearing for the respondent / plaintiff had contended that the defendants have introduced Exhibits B.1 to B.11 much later in the part of the trial. Therefore, in order to answer to those documents, the present reply statement is mandated. He further contended that only some of the documents are computer patta, the other



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documents are kist receipts, which would establish the possession of the plaintiff. Hence, he prayed for sustaining the order passed by the Trial Court.

6. I have carefully considered the submissions made on either side and perused the materials available on record.

7. The defendants have filed their written statement on 05.06.2012. All the documents on the side of the defendants were presented before the Court with the leave of the Court in June 2013. The plaintiff had amended her plaint twice in April 2016 and July 2017. These facts are not in dispute.

8. The present application seeking the permission of the Court to file reply statement has been filed on 05.02.2018 on the ground that, the new documents placed by the defendants before the Court have to be answered. A perusal of the order passed by the Trial Court in I.A.No.129 of 2017 filed by the plaintiff seeking amendment of the plaint clearly



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shows that, only to answer Exhibits B.1 to B.11, the said amendment application has been filed. Therefore, the contention of the learned Counsel appearing for the respondents that, they are constrained to file a reply statement to answer to documents B.1 to B.11 is not legally sustainable. That apart, when the documents have been presented before the Court in the year 2013 and evidence on the side of the plaintiff has already been closed, the request of the plaintiff for filing a reply statement after five years is not permissible.

9. The other part of the prayer in I.A.No.174 of 2018 is seeking the permission of the Court to file additional documents. It should be noted that this application has been filed after the plaintiff's side evidence was closed. A perusal of the list of documents indicate that out of 20 documents, 10 of them are computer pattas and the rest of them are judgment and decrees in other proceedings and some tax receipts. The only reason assigned by the plaintiff for belated filing of this application is that, they were able to gather these documents at the time of cleaning the house during Pongal festival. These documents are computer pattas



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and no further reason has been assigned for not filing these documents at the time of examination of the plaintiff's side witnesses. Even in paragraph No.11 of the plaint, there is a reference about the suit in O.S.No.131 of 2011. Therefore, no proper explanation has been offered by the plaintiff for filing the judgment and decree in the above said suit much belatedly after the closure of the plaintiff's side evidence. However, the Trial Court without considering the belated nature of the application, has proceeded to allow the said application.

10. In view of the above said deliberations, the order passed by the Trial Court in I.A.No.174 of 2018 is hereby set aside. This Civil Revision Petition stands allowed. The District Munsif Court, Kovilpatti is directed to dispose of the suit within a period of four (4) months from the date of receipt of a copy of this order. There shall be no order as to costs.

17.04.2024



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NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

- 1.The District Munsif Court,
Kovilpatti.
- 2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

BTR

Order made in
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