



C.R.P(MD)No.1392 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.08.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P(MD)No.1392 of 2024

and

C.M.P(MD)No.8267 of 2024

1.Chellammal

2.Rekha

3.Sumathi

... Petitioners /
Respondents 2, 3 & 5 /
Defendants 2, 3 & 5

Vs.

1.Anusuya

... Respondent /
Petitioner /
Plaintiff

2.Veera Pandiaraj

... Respondent /
1st Respondent /
1st Defendant

3.Muniyandi

... Respondent /
4th Respondent /
4th Defendant



C.R.P(MD)No.1392 of 2024

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.873 of 2023 in O.S.No.14 of 2019 on the file of the District Munsif, Aranthangi dated 06.01.2024.

For Petitioners : Mr.R.Balakrishnan

For Respondents : Mr.N.Balakrishnan for R.1

No Appearance for R.3

ORDER

Heard both sides.

2.The defendants 2, 3 and 5 in O.S.No.14 of 2019 on the file of District Munsif Court, Aranthangi are the revision petitioners herein. The suit was filed for declaration and permanent injunction. The case of the plaintiff is that she had purchased the suit property from the first defendant. The stand of the revision petitioners in the written statement is that the suit property was purchased in the name of the first defendant from out of the funds generated by selling the ancestral property. Issues were framed and the case is presently pending at the trial stage. At this stage, the plaintiff filed I.A.No.873 of 2023 for reception of her reply



C.R.P(MD)No.1392 of 2024

statement / rejoinder. The IA was allowed vide order dated 06.01.2024.

Challenging the same, this Civil Revision Petition came to be filed.

3.The learned counsel appearing for the revision petitioners reiterated all the contentions set out in the memorandum of grounds of revision and called upon this Court to set aside the impugned order.

4.The learned counsel appearing for the plaintiff / first respondent submitted that the impugned order is well reasoned and that it does not warrant interference.

5.I carefully considered the rival contentions and went through the materials on record.

6.There is considerable merit in the stand of the learned counsel for the revision petitioners that the reception of the reply statement at this stage would cause them serious prejudice. Based on the rival pleadings, issues have been framed and the parties have also gone to trial on that basis. The plaintiff examined herself as P.W.1 and she was cross examined also. At this stage, I.A.No.873 of 2023 came to be filed.



C.R.P(MD)No.1392 of 2024

7. My attention is drawn to the decision reported in **CDJ 1999**

MHC 1110. (H.Ramachandra Rao Vs A.Mohideen). Paragraph 8 of the said order reads as follows:

“8. Petitioner cannot contend or insist that Court must receive additional pleadings as of right. Permission has to be obtained under Order 8, Rule 9 of Code of Civil Procedure. Under what circumstances leave is to be granted and how the discretion is to be exercised, depend on the facts and circumstances of each case. In all such cases, party who seeks leave has to explain as to why this contention was not raised in the earlier pleadings. While exercising discretion, the Court will consider the conduct of the party, stage of the litigation, delay that has occasioned, how far the opposite party will be put to hardship, etc.”

The stage of litigation cannot be lost sight of. The plaintiff cannot be permitted to file a rejoinder after her cross examination was over.

8. In this view of the matter, the impugned order is liable to be set aside. It is accordingly set aside. At the same time, the learned counsel for the plaintiff draws my attention to the decision of the Hon'ble



C.R.P(MD)No.1392 of 2024

Division Bench reported in **1978-87-LW397 (Veerasekhara Varmarayar**

Vs Amirthavalliammal and Others). It has been held therein that merely because the plaintiff had not filed a rejoinder, he must not be deemed to have admitted the case of the defendants set out in the written statement. I am clearly of the view that even if the plaintiff has not filed the reply statement, it cannot be put against her. The case of the defendants will have to be established on merits. With this observation in favour of the plaintiff, impugned order is set aside.

9.This Civil Revision Petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

19.08.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

The District Munsif, Aranthangi.



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C.R.P(MD)No.1392 of 2024

G.R.SWAMINATHAN, J.

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C.R.P(MD)No.1392 of 2024

19.08.2024