



C.R.P.(PD)(MD).No.2543 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD).No.2543 of 2018

1.Mrs.Meena

2.Mrs.Rajathi

... Petitioners

Vs.

Mr.Alagarsamy

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 09.08.2018 in I.A.No.258 of 2018 in O.S.No.301 of 2013 made on the file of the Principal District Munsif Court, Dindigul.

For Petitioners : Mr.B.Rajesh Saravanan

For Respondent : Mr.H.Lakshmi Shankar

ORDER

The present Civil Revision Petition has been filed by the defendants 1 and 2 in a suit for declaration of title and permanent injunction.

2. The plaintiff had filed a suit in O.S.No.301 of 2013 before the Principal District Munsif Court, Dindigul for the relief of declaration of title and permanent injunction. The defendants had filed a written statement



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contending that they are in possession and enjoyment of 58 cents in S.No.

121/3A. The defendants had also filed an additional written statement.

Thereafter, the issues were framed and chief examination of P.W.1 was completed and he was waiting in the box for cross-examination. The present application in I.A.No.258 of 2018 has been filed seeking to raise a counter claim for declaration of 50 cents of land in S.No.121/3A. This application was stoutly resisted by the plaintiff contending that such an application at a belated stage, that too after framing of issues is not maintainable.

3. The trial Court, after considering the submissions on either side, has arrived at a finding that the application for raising a counter claim has been filed much belatedly, after framing of issues and after examination of P.W.1. The trial Court has further found that the counter claim is based upon a cause of action after filing of the written statement. With these observations, the trial Court dismissed the application for raising a counter claim. Challenging the same, the present revision petition has been filed.

4. The learned counsel appearing for the revision petitioners has contended that even in the original written statement they have made a claim for 50 cents of suit property. In order to avoid multiplicity of proceedings, the



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present counter claim has been filed. He further contended that so far P.W.1 has not been cross examined and therefore, the application cannot be considered to be filed in a belated stage.

5. The learned counsel appearing for the respondent/plaintiff contended that after framing all the issues such an application is not maintainable and the trial Court has further found that the counter claim is based upon a cause of action subsequent to the filing of the written statement.

6. This Court is of the considered opinion that the present counter claim having been filed after the issues have been framed and P.W.1 has been chief examined, in a belated stage and the trial Court was right in rejecting the said application. Though the learned counsel for the respondent contended that this counter claim is based upon a cause of action, which is subsequent to the filing of the written statement, this Court leaves the said issue open.

7. In view of the above said deliberations, there is no illegality or irregularity in the order passed by the trial Court. The Civil Revision Petition stands dismissed. However, the revision petitioners are at liberty to file an independent suit, if they are so advised. Both the parties are at liberty to raise



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all the issues before the trial Court. No costs.

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

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To

- 1.The Sub Court,
Vedasandur,
Dindigul District.
- 2.The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

R.VIJAYAKUMAR,J.,



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