



C.R.P.(MD)No.2322 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.2322 of 2019
and
C.M.P.(MD)No.12235 of 2019

M.Kalyani

... Petitioner

Vs.

1. R.Sivaraman
- B.Muralidaran (Died)
2. A.Radhakrishnan
3. R.Panjali
4. The Sub-Registrar,
Sub Registrar Office,
N & T Nagar,
Theni Taluk & District.
5. The District Registrar,
Office of the District Registrar,
South Agranaram,
Periyakulam Town,
Periyakulam Taluk,
Theni District.



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6. The District Collector,
Theni District,
Theni.

7. J.Thangam

... Respondents

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records and set aside the order dated 25.09.2018 in I.A.No.664 of 2018 in O.S.No.157 of 2013 on the file of the District Munsif Court, Theni and allow this Civil Revision with costs.

For Petitioner : Mr.R.Saravanakumar

For R1 : Mr.P.R.Prithiviraj

For R4 to R6 : Mr.J.Ashok

For R2, R3 & R7 : No appearance

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.664 of 2018 in O.S.No.157 of 2013 dated 25.09.2019 on the file of the District Munsif Court, Theni, dismissing the application filed under Order 8 Rule 9 C.P.C. for reception of additional written statement.

2. The first respondent as plaintiff has filed a suit in O.S.No.157 of 2013 claiming permanent injunction restraining the defendants therein



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from in any manner interfering with the plaintiff's peaceful possession and enjoyment of the suit property and also for permanent injunction restraining the defendants 1 and 2 from alienating or encumbering any portion of the suit property in favour of the fourth defendant and any other person and also for permanent injunction restraining the registering authorities from effecting registration of the documents executed by the defendants 1 and 2. The first defendant has filed a written statement and issues came to be framed. When the suit was in part-heard stage, the revision petitioner/second defendant has filed the present application seeking orders to receive additional written statement.

3. The main contention of the revision petitioner, in the affidavit filed in support of the present application, is that when his counsel was perusing the case records, he has informed that additional written statement has to be filed to raise some legal issues and the same would not prejudice the other side and that therefore, it has become just and necessary to file the additional written statement.

4. The first respondent has filed a counter statement raising serious objections that the revision petitioner has taken some pleas in the original



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written statement, but, in the additional written statement, he has taken totally inconsistent pleas to that of the earlier pleas, that the revision petitioner has earlier filed an application for rejection of plaint and the same was dismissed and that thereafter, with the sole intention to drag on the proceedings, he has filed the present application.

5. It is seen from the records that the revision petitioner has earlier filed the application in I.A.No.101 of 2018 for rejection of plaint and after enquiry, the same was ordered to be dismissed on 29.06.2018 and aggrieved by the said order, the revision petitioner has preferred a revision before this Court in C.R.P.(MD)No.2816 of 2018 and this Court, vide order dated 27.04.2019, dismissed the revision.

6. The learned trial Judge, by mainly observing that though the revision petitioner has earlier appeared along with the other defendants through counsel, subsequently by engaging another counsel and by raising some legal pleas, has filed the present application and that the present application came to be filed only to drag on the proceedings, dismissed the application.



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7. It is seen from the records that the suit is pending from 2013 onwards and after the lapse of five years, the present application came to be filed.

8. On considering the entire facts and circumstances of the case and also the dismissal of the earlier revision confirming the order of the dismissing the application filed for rejection of plaint and also taking note of the delay in filing the application and the inconsistent pleas now taken by the revision petitioner, the impugned order dismissing the application cannot be found fault with. Hence, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.

9. In the result, this Civil Revision Petition is dismissed. Since the suit is pending from 2013 onwards, the learned District Munsif, Theni, is hereby directed to complete the trial in O.S.No.157 of 2013 and dispose of the same within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.
No costs.

12.02.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm



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K.MURALI SHANKAR,J.

csn

To

1. The District Munsif Court,
Theni.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

Order made in
C.R.P.(MD)No.2322 of 2019
and
C.M.P.(MD)No.12235 of 2019

Dated : 12.02.2024