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CRP.No.2790 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE M. JOTHIRAMAN

CRP.No.2790 of 2024

and

CMP.No.14816 of 2024

L.V Palanisamy (died)
L.R.Ramamoorthy (died)
1. Saratha
2. Sruthi
3. Kamalaveni
4. P.Sampooranam

... Petitioners / Respondents 5 - 8 /
Defendants 5 - 8

Versus

1. V.Velusamy

... 1st respondent / Petitioner /
Plaintiff

2. Chitra

... 2nd respondent / 3rd respondent /
3rd defendant

3. Manjula

... 3rd respondent / 4th respondent /
4th defendant

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 05.04.2024 passed in I.A.No.9 of 2024 in O.S.No.102 of 2013 on the file of the Additional District Munsif Court, Erode.

For Petitioners : M/s.Gopika Nambiar



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For Respondents : Mr.M.Guruprasad

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ORDER

Unsuccessful defendants 5 to 8 have preferred the present Civil Revision Petition.

2. The suit in O.S.No.102 of 2013 is filed by V.Velusamy, seeking a declaration that the plaintiff is the absolute owner of the 'A' Schedule property and for a permanent injunction restraining the defendants from alienating or creating any encumbrance over the 'A' Schedule property. The plaintiff also sought a direction to the defendants to remove the encroachment made by them in the 'B' schedule property by way of mandatory injunction and to hand over vacant possession of the 'B' schedule property to the plaintiff. The defendants filed their written statement, and necessary issues were framed. Thereafter, the case was posted for trial, and the evidence on both sides was completed. At the stage of arguments, the plaintiff filed an application in I.A.No.9 of 2024 in O.S.No.102 of 2013 under Order VIII Rule 9 and Section 151 of the Code of Civil Procedure, seeking permission to receive a reply statement. Upon hearing either side, the Court below *vide* order dated 05.04.2024, allowed the application on the ground that allowing



the petition would not cause any prejudice to the other side, subject to payment of Rs.1000/- of the Mediation Centre attached to the Eroad District Munsif Court. Aggrieved over the same, the defendants 5 to 8 have preferred the present Civil Revision Petition.

3. The learned counsel appearing for the revision petitioners would submit that the Court below committed a manifest error in permitting the first respondent / plaintiff to file a reply to the written statement when the matter was already at the stage of arguments. The first respondent / plaintiff had not assigned any valid reason for having remained inactive for ten long years. The discretion vested in the Court below was evidently not exercised in accordance with law.

4. Per contra, the learned counsel for the first respondent / plaintiff would submit that filing the reply statement is necessary to establish the case of the plaintiff.

5. It is seen from the records that the trial commenced as early as on 16.11.2021, and the evidence on both sides has been completed. The matter



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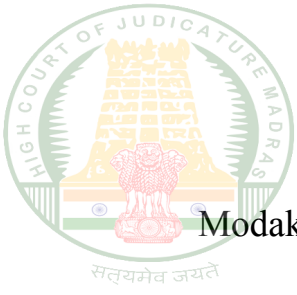
was posted for arguments. At this stage, the application came to be filed. It is also seen from the records and from the reasons stated in support of the petition filed in I.A.No.9 of 2024 in O.S.No.102 of 2013 by the plaintiff that the first defendant had filed his written statement during his lifetime, and after his demise, the other defendants adopted the same. In the written statement, the defendants raised several allegations, such as that item 1 of the 'B' schedule properties is bounded on all sides with walls, and that the plaintiff had relinquished his right over the pathway adjoining their house. The second defendant, L.R.Ramamoorthi, died in the year 2014, and the first defendants, L.V.Palanisamy, died in the year 2020. It is also stated that the plaintiff could have denied those allegations during the trial. Based on those allegations, the plaintiff was cross-examined, and D.W.1 was also cross-examined by the other side. It has been stated that, on a technical ground, that there are no specific pleadings denying those allegations. Therefore, the plaintiff could not pursue defence to those averments. In order to avoid overcome the said technicality, the plaintiff has now chosen to file a reply statement denying the allegations made in the written statement, after nearly 11 years, and only when the suit was posted for arguments. It is seen from the affidavit filed by the plaintiff that no valid or sufficient reason has been assigned for the belated



fling of the reply statement. The Court below, while allowing the petition, has not exercised the jurisdiction vested in it in the manner known to law to permit to file the reply statement, at the stage of arguments. Allowing such an application at this belated stage would amount to improper exercise of discretion. Therefore, this Court finds there are grounds warranting interference under Article 227 of the Constitution of India.

6. In view of the above, there are merits in this Civil Revision Petition, and accordingly, the order dated 05.04.2024 passed in I.A.No.9 of 2024 in O.S.No.102 of 2013 on the file of the Additional District Munsif Court, Erode is liable to be set aside. Therefore, the Court below, shall not take on record, the reply statement filed by the plaintiff.

7. At this Juncture, the learned counsel for the respondent / plaintiff would submit that the O.S.No.102 of 2013 on the file of the Additional District Munsif Court, Erode has been transferred to the District Munisf cum Judicial Magistrate, Modakurichi, and the same is renumbered as O.S.No.07 of 2024, pending on the file of the District Munisf cum Judicial Magistrate,



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8. Considering the age of the suit and also considering the stage of the case, the District Munsif cum Judicial Magistrate, Modakurichi, is directed to dispose of the suit in O.S.No.07 of 2024 as expeditiously as possible.

In the result, this Civil Revision Petition is allowed. Order and decretal order dated 05.04.2024 passed in I.A.No.9 of 2024 in O.S.No.102 of 2013 on the file of the Additional District Munsif Court, Erode is set aside. Consequently, connected miscellaneous petition is closed. No costs.

23.09.2025

av

Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

To

1. The Additional District Munsif Court, Erode.
2. The District Munsif cum Judicial Magistrate, Modakurichi,



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