



C.R.P.No.3355 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.3355 of 2023
and C.M.P.No.20847 of 2023

E.Ayenan Arul Jothi Kumar
S/o. Eswaramurthy

... Petitioner/Plaintiff

Vs

1.Annapoorani,
W/o.Somasundaram.

2.Muruganantham
S/o.Late Saravanan

3.Karthikeyan
S/o.Late Saravanan

4.Balasubramanian
S/o.S.B.Chandrasekar



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5.C.Sivanmalai

S/o.S.Chinnasamy

6.D.Vadivel

S/o.Duraisamy

... Respondent/Defendants

PRAYER : Civil Revision Petition filed seeking to set aside the fair and final order passed by the II Additional District Munsif Court, Erode dated 21.03.2023 in I.A.No.10 of 2022 in O.S.No.16 of 2017.

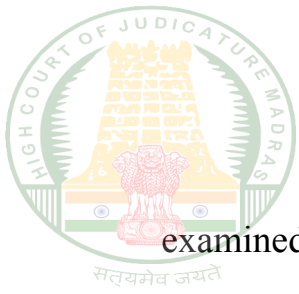
For Petitioner : Mr.T.Gowthaman
Senior Advocate for
Mr.B.Pachaiyappan

For Respondents : M/s.K.J.Parthasarathy
V.V.Uthra
Saadhana Madhavan for R1 to R3
: R4 to R6 - No appearance

ORDER

This Civil Revision Petition has been filed against the dismissal of the petition filed under Order 8 Rule 9 and Section 151 of CPC seeking permission to file subsequent pleadings.

2. The case of the petitioner/plaintiff is that the respondent/defendant



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examined himself as DW1 and filed proof affidavit in which he has stated some new facts which were not pleaded in his written statement and thereby sought for permission to file additional pleadings. The trial Court, holding that any amount of evidence which does not form part of the pleadings cannot be taken into account, had dismissed the application against which, the present revision has been filed.

3. Mr.T.Gowthaman, learned Senior Counsel appearing on behalf of the petitioner would submit that the respondents/defendants have filed a proof affidavit wherein they have stated certain additional facts which were not pleaded in the written statement and thereby situation arose for the petitioner / plaintiff to file a reply to the proof affidavit, and thereby a petition has been filed. However, the trial Court without considering the requirement, had dismissed the application and thereby, the petitioner seeks to allow the revision petition and set aside the order of the trial Court.

4. Mr.K.J.Parthasarathy, the learned Counsel for the respondents 1 to 3 would submit that the respondents / defendants have filed a proof affidavit on 23.08.2022 and despite the case being posted for cross examination of the



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defendants, the petitioner / plaintiff did not cross examine them. However, on 06.12.2022, only in order to protract the proceedings, the petitioner / plaintiff had filed an application seeking leave to file subsequent pleadings. He further submitted that the trial Court was correct in finding that any amount of evidence that traveled beyond the pleadings, cannot be taken into account and had rightly dismissed the application. He would submit that the petition has been filed only to protract the proceedings and that the petitioner / plaintiff has successfully delayed the suit pending before the lower Court. He would further submit that the case has been transferred to the file of the District Munsif cum Judicial Magistrate Court at Elumathur.

5. Heard both the sides and perused the materials available on record.

6. It is relevant to refer to the decision rendered by the Hon'ble Apex Court in ***Ram Sarup Gupta v. Bishun Narain Inter College*** reported in (1987) 2 SCC 555 wherein the Hon'ble Apex Court held as follows:-

"6. It is well settled that in the absence of pleading, evidence, if any, produced by the parties cannot be



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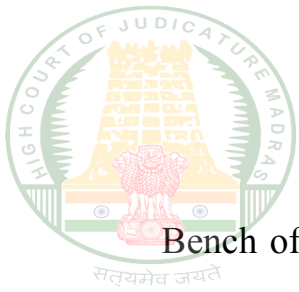


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*considered. It is also equally settled that **no party** should be permitted to travel beyond its pleading and that all necessary and material facts should be pleaded by the party in support of the case set up by it. The object and purpose of pleading is to enable the adversary party to know the case it has to meet. In order to have a fair trial it is imperative that the party should settle the essential material facts so that other party may not be taken by surprise..."*

7. In this case, the petition seeking to file additional reply statement has been filed after the respondents / defendants have filed the proof affidavit and the trial Court found that the plaintiff, having refrained from cross examining the defendants on several occasions, had filed the petition only to delay the proceedings. Further it was held that any amount of evidence which is more than the pleadings cannot be taken into account and had dismissed the application.

8. Similar reliance can also be placed upon the judgment of the Full



Bench of the Hon'ble Apex Court in ***Biraji v. Surya Pratap, (2020) 10 SCC 729***

WEB ~~CONF~~ wherein it was held that,

*"8.In the absence of any pleading in the suit filed by the appellants, at belated stage, after evidence is closed, the appellants have filed the application to summon the record relating to leave/service of Ramesh Chander Singh on 14-11-2001 from the Rajput Regiment Centre, Fatehgarh. **It is fairly well settled that in absence of pleading, any amount of evidence will not help the party.** When the adoption ceremony, which had taken place on 14-11-2001, is mentioned in the registered adoption deed, which was questioned in the suit, there is absolutely no reason for not raising specific plea in the suit and to file application at belated stage to summon the record to prove that the second respondent Ramesh Chander Singh was on duty as on 14-11-2001. There was an order from the High Court for expeditious disposal of the suit and the*



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application which was filed belatedly is rightly dismissed by the trial court and confirmed by the Revisional Court and the High Court."

9. It is a settled principle of law that any amount of evidence without pleadings cannot be accepted. That apart, it is always open to the plaintiff to prove or disprove his case by cross examining the defendant and leading evidence. Hence, the trial Court has rightly dismissed the application seeking to file additional reply statement and as such, I do not find any infirmity in the order passed by the trial Court. However, taking note of the fact that the trial commenced on 01.03.2019, the trial Court is directed to complete the trial as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of the order.

10. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Neutral Citation : Yes / No
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To

1. II Additional District Munsif, Erode.



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A.D.JAGADISH CHANDIRA, J.
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