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C.R.P. No. 3894 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2025

CORAM

**THE HON'BLE MR. JUSTICE V. LAKSHMINARAYANAN**

C.R.P. No. 3894 of 2024

&

C.M.P. No. 21322 of 2024

1. P. Gowsalya
2. P. Ganga Bai
3. J. Natarajan

..Petitioners

Vs.

1. P. Parthiban
2. S. Elangovan
3. P. Maniammal

..Respondents

Prayer: Revision under Article 227 of the Constitution of India as against the fair and decretal order dated 31.07.2024 made in I.A. No. 1 of 2023 in O.S. NO. 192 of 2014 by the learned District Munsif, Tambaram.

For Petitioners :: Mr.S. Ravichandran

For Respondents :: Mr.S. Mohan



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## ORDER

This civil revision petition is at the instance of defendant Nos. 1, 4 & 8 in O.S. No. 192 of 2014.

2. O.S.No. 192 of 2014 is a suit for permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of suit property by the plaintiffs. For the purpose of disposal of this civil revision petition, I need not delve deep into the facts of the case. Suffice to state that a written statement has been filed, issues have been framed and the trial has commenced.

3. During the course of trial, two partition deeds dated 15.11.1999 and 20.10.2003 were produced by the plaintiffs. The defendants wanted to deny the two documents and other pleadings by way of an additional written statement. Hence, they filed an application in I.A. No. 1 of 2023, seeking the Court to receive the additional written statement. The defendants, at that stage, in the additional written statement, had added a plea of counter claim. Notice was ordered in the application and a counter was received.

4. The learned Trial Judge, taking into consideration that



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defendants had knowledge about the partition deeds and other documents even at the time of filing of their written statement in the year 2015, rejected the counter claim as barred by time. Hence, this revision.

5. When the matter came up for admission, Mr.S. Ravichandran, pleaded that he is not pressing the prayer for counter claim and is confining the relief sought in the application only for the purpose of receiving the additional written statement. Hence, this Court issued notice. Notice has been served and Mr.S. Mohan entered appearance for the respondents/plaintiffs.

6. I have heard Mr.S. Ravichandran and Mr.S. Mohan for the respective parties.

7. Mr.S. Ravichandran reiterated his plea that he is confining his prayer with respect to validity of partition deeds alone and he is not pressing the counter claim with respect these documents.

8. Mr.S. Mohan points out that no sympathy must be shown to the defendants as the suit is pending from the year 2014 and much water has flown under the bridge. He adds witnesses have been examined in the said proceedings and that the application is belated.



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9. I have carefully considered the submissions made by both sides.

10. The provision of law relating to additional written statement is Order VIII Rule 9 of the Code of Civil Procedure. Unlike Order VI Rule 17 of the Code, which places a bar for amendment of pleadings, once trial has commenced, no such bar has been contemplated for receipt of additional pleadings. In fact, the words used are 'leave of Court' and it should be liberally construed (*See USHA BALASAHEB v. KIRAN, (2008) 1LW 455*). In fact, it is not unknown that in exceptional circumstances, additional pleadings are received by this Court, even at the second appellate stage;

11. Now, parties are still at the stage of trial. Therefore, full play at the joints must be given. Parties should be entitled to bring forth whatever pleadings and evidence that they want to bring in before the Trial Court in support of their case.

12. In the light of the above discussion, the order of the learned Trial Judge in I.A. NO. 1/2023 in O.S. NO.192 of 2014 dated 31.07.2024 is set aside subject to the following conditions:-

- (i) Defendant Nos. 1, 4 and 8 shall pay costs of Rs.10,000/- to the plaintiffs .



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(ii) The said cost must be paid on or before 10.02.2025 to plaintiffs.

(iii) On 11.02.2025, i.e., the next date of hearing, the Court shall confirm whether the payment of costs has been made and if it is has been, thereafter, permit the receipt of additional written statement.

(iv) The Court will ensure that the learned counsel for the defendants/petitioners strike off the portion relating to the counter claim before receipt of the additional written statement.

(v) On receipt of additional written statement, the Court shall grant two weeks time to the plaintiffs to file a reply statement, if any.

(vi) Once the filing of the additional written statement and reply statement, if any, are completed , the suit shall be proceeded with all expedition that it deserves, as it has been pending for more than a decade.



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nv

13. The civil revision petition is allowed with the above directions.

Connected miscellaneous petition is closed.

22.01.2025

nv

Index: Yes/No

Speaking Order/Non-speaking Order

Neutral Citation: Yes/No

To

1. The District Munsif, Tambaram.

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