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C.R.P.Nos.33 and 34 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.Nos.33 and 34 of 2024
and C.M.P.No.126 of 2024

Ajith Kumar

... Petitioner (in both CRPs)

vs.

C.L.Ravichandran

... Respondent (in both CRPs)

PRAYER in CRP.No.33 of 2024: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the Order and Decreetal Order dated 09.10.2023 passed in I.A.No.2 of 2023 in O.S.No.4612 of 2022 by the learned VII Additional Judge, City Civil Court at Chennai and allow I.A.No.2 of 2023 in O.S.No.4612 of 2022.

PRAYER in CRP.No.34 of 2024: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the Order and Decreetal Order dated 05.10.2023 passed in I.A.No.3 of 2023 in O.S.No.4612 of 2022 by the learned VII Additional Judge, City Civil Court at Chennai and allow I.A.No.3 of 2023 in O.S.No.4612 of 2022.

For Petitioner : Mr.N.Nagu Sah (in both CRPs)

For Respondent : Mr.M.Kempraj (in both CRPs)

COMMON ORDER



C.R.P.Nos.33 and 34 of 2024

WEB COPY The Civil Revision Petitions are filed challenging the order passed by the Court below dismissing the applications filed by the petitioner seeking to receive reply statement and to receive additional documents.

2. The petitioner/plaintiff filed a suit for recovery of money against the respondent. The suit was originally filed on the Original Side of this Court on 31.07.2006. Though the suit summon was served on the respondent/defendant in December 2009, he failed to appear and he was set *exparte* and an *exparte* decree was passed and latter it was set aside. The respondent/defendant belatedly filed set aside petition with condone delay petition in Application No.3878 of 2014. After condonation of delay, the *exparte* decree was set aside by this Court in June-2022 and the suit was transferred from the file of this Court to the file of VII Additional City Civil Court, Chennai due to enhancement of pecuniary jurisdiction. Thus, written statement was filed belatedly.

3. The petitioner filed these two applications before the VII



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Additional City Civil Court, Chennai during March-2023. According to the petitioner, the respondent in his written statement raised allegations regarding the transactions that happened between 1996 and 2003 between him and the promoter company by name M/s.Nirankaar Constructions Private Limited in which the plaintiff is the Director. The petitioner further states that transactions between the company and the respondent/defendant were looked after by him, the said company passed a Board Resolution on 11.07.2003 authorising the petitioner to deal with the respondent. The petitioner was also authorised to take action against respondent in his individual capacity for collection of dues payable to the company. In order to raise these pleas in his pleadings, which are only response to the pleas raised by the respondent/defendant in the written statement, the petitioner filed I.A.No.2 of 2023 to receive reply statement and I.A.No.3 of 2023 to receive copy of the Board Resolution, dated 11.07.2003. These two applications were dismissed by the Trial Court. Aggrieved by the same, the petitioner has come before this Court.

4. The learned counsel appearing for the petitioner would submit that



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the Trial Court dismissed the applications filed by him on two grounds namely reply statement to the written statement was not filed in time and the pleadings raised by the petitioner/plaintiff in his reply statement are inconsistent with the original plaint and both the grounds are untenable in law.

5. The learned counsel appearing for the respondent would submit that the reply statement can be permitted only if it is required by law or any counter claim is filed by the defendant or Court permits such reply statement. In the case on hand, none of the conditions are satisfied. Therefore, the Court below was justified in dismissing the applications filed by the petitioner. The learned counsel further submits that the transaction between the defendant and the company had taken place prior to 2003 and therefore, the present suit filed by the plaintiff is hopelessly barred by limitation. In support of his contention, he relied on the judgment of Apex Court in ***Sheikh Noorul Hassan vs. Nahakpam Indrajit Sing and others*** reported in ***2024 INSC 391***.

6. A perusal of the plaint would indicate that even in the plaint



averments the plaintiff clearly stated that he was engaged in construction business and in furtherance of the same, he promoted a residential flat complex in the name and style 'M/s.Nirankaar Constructions Private Limited'. Therefore, in the plaint, there is a reference about the company named by the defendant in his written statement. The suit was resisted by the defendant on the ground that the transaction of the defendant was only with the 'M/s.Nirankaar Constructions Private Limited' and hence, the present suit filed by the plaintiff in his individual capacity, was not maintainable.

7. Since the defendant had taken a plea that the suit filed by the plaintiff in his individual capacity was not maintainable, the plaintiff filed reply statement stating that he is promoter of the company and the company passed a Board Resolution authorising the plaintiff to deal with the respondent/defendant and to recover the dues of the company. The averments sought to be raised by way of reply statement is only in response to the defence raised by the defendant in his written statement. Further, there is no inconsistency in the original pleadings in the plaint and pleadings in the reply statement. Even after filing the reply statement, the



plaintiff wants to continue the suit only in his individual capacity. The averments in the reply statement are only clarificatory in nature to the defence raised by the defendant in his written statement.

8. In ***Sheikh Noorul Hassan*** case cited by the learned counsel appearing for the respondent, the Apex Court referred to the earlier judgment of the Delhi High Court in ***Anant Construction (P) Ltd. vs. Ram Niwas*** reported in ***1994 SCC Online Del*** 615. The Apex Court extracted principal governing the filing of the reply statement, which reads as follows:-

“Finally, the Court summed up its conclusions as under:

“24. To sum up:

(1) ‘Replication’ and ‘rejoinder’ have well defined meanings. Replication is a pleading by plaintiff in answer to defendant’s plea. ‘Rejoinder’ is a second pleading by defendant in answer to plaintiff’s reply i.e. replication.

(2) To reach the avowed goal of expeditious disposal, all interlocutory applications are supposed to be disposed of soon on their filing. A delivery of copy of the I.A. to



the counsel for opposite party is a notice of application. Reply, if any, may be filed in between, if the time gap was reasonable enough, enabling reply being filed.

(3) I.A.s which do not involve adjudication of substantive rights of parties and / or which do not require investigation or inquiry into facts are not supposed to be contested by filing written reply and certainly not by filing replication.

(4) A replication to written statement is not to be filed nor permitted to be filed ordinarily, much less in routine. A replication is permissible in three situations:

- i. when required by law;*
- ii. when a counter claim is raised or set off is pleaded by defendant;*
- iii. when the court directs or permits a replication being filed.*

(5) Court would direct or permit replication being filed when having scrutinised plaint and written statement the need of plaintiff joining specific pleading to a case specifically and newly raised in written statement is felt. Such a need arises for the plaintiff introducing a plea by way of 'confession and avoidance'.

(6) A plaintiff seeking leave of the Court has to



present before it the proposed replication. On applying its mind the court may grant or refuse the leave.

(7) A mere denial of defendant's case by plaintiff needs no replication. The plaintiff can rely on rule of implied or assumed traverse and joinder of issue.

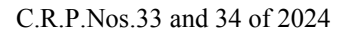
(8) Subsequent pleadings are not substitute for amendment in original pleadings.

(9) A plea inconsistent with the plea taken in original pleadings cannot be permitted to be taken in subsequent pleadings.

(10) A plea which is foundation of plaintiff's case or essentially a part of cause of action of plaintiff, in absence whereof the suit will be liable to be dismissed or the plaint liable to be rejected, cannot be introduced for the first time by way of replication."

(Emphasis supplied)

9. After referring to the above said principal, finally it was concluded leave to file replication for reply statement cannot be granted and if the courts feel that in order to have fair trial of issues already raised by the



plaintiff or explain the averments made in the written statement, it can
 permit him to file reply statement.

10. In the case on hand, the defendant in his written statement raised a plea that the suit filed by the plaintiff in his individual capacity was not at all maintainable and the transaction of the defendant was only with the company. Therefore, the plaintiff wants to file a reply statement stating that he is promoter of the company and he is authorised to recover dues of the company by way of Board Resolution.

11. Whether the Board Resolution relied on by the plaintiff is valid or not and whether it legally permits the petitioner to maintain the suit, all these issues are to be considered by the Trial Court at the time of final disposal of the suit. By permitting the plaintiff to clarify his position with regard to the defence raised by the defendant, no prejudice would be caused to the defendant. Therefore, this Court feels the applications filed by the plaintiff are liable to be allowed.

12. In the impugned order, the Trial Court observed that there is a



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time limit of 14 days for filing the reply statement to the written statement.

Order VIII Rule 9 of Civil Procedure Code deals with subsequent pleadings, covers reply statement. Under the said provision, no time limit is fixed for filing reply statement and the same can be done with the leave of the Court. Therefore, the said reasoning given by the Trial Court is not correct.

13. It is also stated by the Trial Court that pleas raised in the reply statement are inconsistent with the original pleadings in the plaint. As stated earlier, in the plaint, there is a reference about the company and now, the plaintiff wants to state that he is the Promoter of the Company and he is authorised to recover dues of the company. Therefore, the pleadings raised in the reply statement are not inconsistent, on the other hand it is only supplementary to the original pleadings. The supplementary plea is required due to defence raised in the written statement.

14. In such circumstances, the order passed by the Trial Court dismissing the applications filed by the plaintiff cannot be allowed to stand and accordingly, the impugned orders passed by the Trial Court in I.A.No.2 of 2023 in O.S.No.4612 of 2022, dated 09.10.2023 and I.A.No.3 of 2023 in



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O.S.No.4612 of 2022, dated 05.10.2023 are set aside and the Civil Revision
Petitions are allowed.

15. Since the plaintiff is permitted to file a reply statement, the defendant is entitled to file rejoinder, if so advised. No costs. Consequently, the connected civil miscellaneous petition is closed.

31.10.2025

Index : Yes
Speaking order : Yes
Neutral Citation : Yes
dm

To

The VII Additional Judge,
City Civil Court, Chennai.



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S.SOUNTHAR, J.

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