

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2019

CORAM:

THE HONOURABLE Mr. JUSTICE C. SARAVANAN

C.R.P.(PD).No.1334 of 2015

and

M.P.No.1 of 2015

M.N.Natesh

... Petitioner

Vs.

1.Mani

2.Sarasu

3.Saravanan

...Respondents

PRAYER Civil Revision Petitions filed under Article 227 of the Constitution of India as against the Fair and Decreetal Orders in I.A.No.427 of 2011 in O.S.No.292 of 2006 dated 03.06.2011 on the file of District Munsif, Attur, Salem District.

For Petitioner : Mr.S.Kamadevan

For Respondents : No appearance

ORDER

The Civil Revision Petition is preferred against the fair and decreetal orders in I.A.No.427 of 2011 in O.S.No.292 of 2006 dated 03.06.2011 on the file of District Munsif, Attur, Salem District.

2. Though notice has been served on the respondents and there is no representation on their behalf through their name is printed in the cause list.

3. The revision petitioner is the plaintiff. The defendants filed the written statement. After the trial commenced, the petitioner filed I.A.No.427 of 2011 under Order 8 Rule 9 of the Civil Procedure Code to receive reply statement. By the impugned order, the Court has dismissed the I.A.No.27 of 2011 on the ground that the application for filing reply statement has been made after the cross examination of PW.1.

4. The learned counsel submit that the lower Court erred in dismissing the application.

5. In this connection, the learned counsel for the petitioner has relied on the decision of this Court reported in ***Indo International Ltd., rep.by its Managing Director, Chennai-1 and another Vs. Continental Carriers Private Ltd., rep by its Regional Manager, M.V.Bhat, Chennai 28, 2004 (3) CTC 353***, wherein it was held as follows:

"22. Under Order 8, Rule 9, C.P.C, it is always open to the Court to exercise its discretion to allow the defendants to file any additional written statement. This proposition could be imported to the filing of the reply statement also. Whenever a new plea is introduced by the defendant in the written statement, contingency of filing the rejoinder arises clarifying their position. Courts are vested with discretion to allow the plaintiff to file the reply statement explaining the position which is not inconsistent with the earlier plea adopted by the plaintiff.

24. The Rule invests with the Court a wide discretion to allow the plaintiff to file the reply statement. Since the plea of limitation was adopted by the defendant in the written statement, certainly it is open to the plaintiff to explain the same. The learned trial Judge has rightly exercised the discretion in allowing the plaintiff to file the reply statement explaining the same. Certainly filing of reply statement does not amount to introducing new cause of action."

5. The above observations applies to four corners of the case. Therefore, I am inclined to allow the Civil Revision Petition. Considering the fact that the suit is of the year 2006 and almost six years lapsed in view of the pendency of the Civil Revision Petition, it is ordered as follows:

- i) The impugned order passed in I.A.No.427 of 2011 in O.S.No.292 of 2006 dated 03.06.2011 on the

C.SARAVANAN., J.

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file of the District Munsif, Attur, Salem District is hereby set aside and is therefore allowed;

ii) The District Munsif, Attur, Salem District is directed to accept the reply statement of the petitioner;

iii) The District Munsif, Attur, Salem District is also directed to dispose the suit in O.S.No.292 of 2006 within a period of six months from the date of receipt of a copy of this order.

6.The Civil Revision Petition is allowed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

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28.06.2019

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To

The District Munsif , Attur, Salem District.

**C.R.P.(PD).No.1334 of 2015
and M.P.No.1 of 2015**