

I.A.No. 6/2024

OS.No. 4473/2014

Dated : 14.02.2025

Order Pronounced:

(i) Heard the learned counsels for both sides. Records perused. Orders pronounced today at 10:30 am in open court.

(ii) This petition is filed u/o 6 rule 16 CPC to strike down the pleadings made in the additional written statement filed by the Respondent. This court sees that the main suit is filed by the Petitioners as Plaintiffs seeking the relief of directing the Defendants to deliver the vacant possession, Mandatory Injunction to demolish the unauthorized construction made in the suit property and also for the consequential relief of Permanent Injunction against the Respondent herein. For the sake of convenience this court refers the parties as per their ranking in the plaint. The Defendant had entered contest in the suit by filing a written statement during the year 2015. Then the suit was posted for trial but interim applications were filed and subsequently CRP were also filed against the orders passed in the interim applications and finally trial resumed after the disposal of CRP. The suit is now pending at the stage of PW1 cross continuation and the Defendant had filed additional written statement based on the orders passed in IA.No.3/24. The Plaintiffs being aggrieved by the allegations made in para 1 to 3, 22 to 25 of the additional written statement had filed this interim application to strike out those pleadings. The reason stated by the Plaintiffs is that they are unnecessary, scandalous, frivolous, vexatious and defamatory allegations are made with an intention to protract the trial proceedings. The Defendant in his counter denied the same and stated that those claims and assertions made in the additional written statement are actual and genuine. They also stated that these facts are essential and indispensable to show the malafide intention of the diocese people to deal with the government land and sell it to the builders after evicting the Defendant.

(iii) This court on careful reading of the plaint averments sees that the Plaintiffs had pleaded that the Defendant as a tenant occupied the suit property and illegally put up construction and refused to vacate the suit even after terminating his tenancy

which prompted the Plaintiffs to file the suit on hand. The Defendant in his written statement had refuted the plaint averments and specifically pleaded that the suit property does not belong to the Plaintiff and has no right to file the suit. The careful reading of the written statement filed by the Defendant during the year 2015 and also the additional written statement would aid to know that the Defendant had only narrated and elaborated facts relating to the antecedents of the suit property and also the alleged malafide intention to sell the suit property after evicting the Defendant. This court sees that the additional written statement filed by the Defendant is in consonance with the earlier filed written statement and no new set of facts are introduced or pleaded to shock or surprise the Plaintiffs. The Defendant had specifically mentioned in IA.No.3/24 filed to receive additional statement that his erstwhile counsel acted detrimental to his interest and it is necessary to file the additional written statement narrating his entire defense vividly. The said application after contest was allowed and the Defendant when filed the additional written statement which is seen as no way incongruous to the earlier filed written statement then it has to be received without striking any of those paragraphs pointed out by the Plaintiffs.

(iv) This court sees that the Defendants in those paragraphs had made certain allegations against the Plaintiffs but it was already mentioned in the earlier filed written statement and it cannot be branded as scandalous and unnecessary. The Plaintiffs if they feel aggrieved with the contents/facts mentioned in the impugned paragraphs then it may be refuted by filing a reply statement. The Plaintiffs in fact filed interim applications to receive reply statement which would be considered liberally and disposed at the earliest point of time. The Plaintiffs in their reply statement filed along with the interim application to receive their reply statement had denied those allegations leveled against them in the additional written statement by the Defendant. This court finds that those paragraphs pointed out by the Plaintiffs in the additional written statement filed by the Defendant are only supplemental in nature and it cannot be considered as introduction of new set of facts, scandalous, unnecessary and cause further delay in the trial proceedings. No convincing reasons

and acceptable grounds given to strike out those pleadings/para mentioned by the Plaintiffs and this court arrives into conclusion that this petition sans merits and accordingly deserves rejection.

(v) In the result this petition is *dismissed**. No costs.

Directly dictated to the steno typist, typed by her, corrected and pronounced by me in open court on this the 14th day of February 2025.

Sd/- C.Suresh Kumar
XI Assistant Judge

*(*Amended u/s 152 CPC on 25.02.2025)*