

IN THE COURT OF DISTRICT MUNSIF, VADIPATTI, MADURAI DT.**Present : Thiru. M.P. Ramkishore, B.E., BL., (Hon's)**

District Munsif, Vadipatti

Dated 22nd day of August 2024**IA. No.03/2024****In****O.S. No.73/2019**

1. Amirdhavalli,
W/o. Rajendran,
Vadipatti Taluk, Madurai District.
2. J. Rajendran,
S/o. Jeyaram,
Vadipatti Taluk, Madurai District.

---- *Petitioners / Defendants****//Versus//***

Pushpam,
W/o. Late Nallamareddiyar,
Vadipatti Taluk, Madurai District

---- *Respondent / Plaintiff*

This petition was filed before this Court on 05.03.2024 coming before me for final hearing on 22.08.2024, Advocate Thiru. G. M. Ramani appeared for Petitioners / Defendants and Advocate Thiru. N. Rajaji appeared for Respondent / Plaintiff. Upon hearing arguments on both sides and upon perusing the available material records, today this Court has delivered the following....

ORDER

1. This petition was filed under s.151 of C.P.C. to file additional written statement.

2. Petition averments in brief:

The petition contention was that, the petitioner was the 2nd defendant in the main suit. The respondent / plaintiff filed I.A. No. 718 of 2022 to amend the plaint based on check leaf but the respondent additionally added the respondents property as third schedule in the main suit. In such scenario, it is necessary for this petitioner to file additional written statement. Hence the petitioner / defendant filed this petition, seeking leave of this court to file additional written statement.

3. Counter averments in brief:

The respondent / plaintiff filed counter by denying the entire petition contentions and stated that the petition was unlawful and with false facts. The facts mentioned in additional written statement was already mentioned in the written statement and was misleading the court. Allowing this petition would cause hardship to the respondent. Thus, this petition must be dismissed.

4. Point for determination : Whether this petition can be allowed?

i. Heard both sides. Admittedly the main suit was filed for easement, declaration, permanent injunction and mandatory injunction. It was pending for trial. The petitioner / defendant filed this petition for seeking leave to file additional written statement on the defendant side, on the ground that the plaint was amended. On the other hand, the respondent challenged the petition stating that the grounds mentioned in the petition were false and misleading.

ii. In this regard, this court relies upon the judgment *our Hon'ble High Court in Thiagarajan vs. Manivannan, C.R.P.(PD) No.996 of 2005, 15.9.2006* as,

“19. The trial court has found fault with the petitioner / defendant that the application is belated one and the same cannot be entertained after framing the issues and when the suit is in the trial stage. These findings are obviously erroneous and are not sustainable in view of the proposition laid down by this court in the above decisions.

20. The trial court is also wrong in holding that a new case has been set up by the petitioner / defendant in the additional written statement. I have already referred to the averments contained in both the original and additional written statements. A reading of these two statements would make it very clear that the averment in the additional written statement is also in line with the original written statement, of course with some inconsistencies. But that does not mean that a totally new case has been put forward by the petitioner / defendant. Courts should be very liberal in granting relief under Order 8 Rule 9 C.P.C. as wide discretion has been given to the courts to adjudicate the matter including subsequent pleadings completely and finally. Of course the discretion is to be exercised on terms considering the facts and circumstances of the individual cases. The trial court, in this case, has unfortunately rigid in being unreasonable in throwing out the application on technicalities.

21. Therefore, I am inclined to set aside the order of the trial court and permit the petitioner / defendant to file the additional written statement in O.S.No.99/2004 on condition that he pays a sum of Rs.1,000/- directly to the respondent / plaintiff within a period of two weeks from the date of receipt of copy of this order.”

From the above judgment ***our Hon'ble High Court had decided as***, even after starting of trial filing additional written statement can be allowed if it do not put forward a new case. Even in the case in hand the additional written statement do not bring out any new ground but only challenge the amendments made in the main suit, hence it do not alter the contentions raised in written statement. Thus, in the light of the above mentioned dictum of our Hon'ble High Court, the petitioner / defendant can be permitted to file additional written statement even at this stage.

5. ***In the result***, the petition is allowed, no costs.

Directly dictated to the Stenographer and computerized error checked and pronounced in the open court on 22nd day of August 2024.

Sd/-
M.P. Ramkishore,
District Munsif,
Vadipatti.

Petitioners side evidence and documents: Nil

Respondent side evidence and documents: Nil

Sd/-
M.P. Ramkishore,
District Munsif,
Vadipatti.

TRUE COPY

DISTRICT MUNSIF COURT

Vadipatti

Fair Order/~~Draft Order~~

IA. No.03/2024

In

O.S. No.73/2019

Date : 22.08.2024