

I.A.No.3/23
in
O.S.No.2/2023

D.D.07.06.2024:

Order Pronounced.

2. This application is filed to receive reply statement for the written statement filed by the respondents/defendants.

3. According to the petitioner/plaintiff, the respondents/defendants had stated in the written statement filed along with the application to condone the delay in filing the petition to set aside the exparte decree as well as the application to set aside the exparte decree and in the written statement, the respondents/defendants have pleaded that after filing of the suit, a compromise was entered between the plaintiff and the defendants and it was agreed to divide the house and allot the same in three shares and the plaintiff also agreed to withdraw the suit. The said averment has to be denied by the petitioner/plaintiff by way of reply statement.

4. The written statement filed by the respondents/defendants is perused.

There is no averment in the written statement as follows;

“ வாதி இந்த வழக்கை தாக்கல் செய்த உடன் ஒரு வருடத்தில் வாதியும், பிரதிவாதிகளும் சமாதானம் பேசினோம் என்றும் , அந்த சமாதானத்தில் பூர்வீக சொத்தை விற்று விடலாம் என்றும் , வீட்டை அப்பொழுது பாகம் பிரிக்கவில்லை என்றும், நிலத்தை ஒவ்வொருவரும் 1/3 பாகம் பிரித்துக்கொள்ளலாம் என்றும் சமாதானம் பேசினோம் என்றும், என் அண்ணன் வழக்கை வாபஸ் பெற்றுக்கொள்வதாக ஒப்புக் கொண்டார் என்றும் ”.

When there is no averment in the written statement as stated above. There is no necessity for the petitioner/plaintiff to file reply statement, the averment stated in the affidavit filed in the petition to condone the delay in filing the exparte decree set aside petition as well as the affidavit filed in the exparte decree set aside petition are not pleadings. Only the reply statement can be filed in respect of the averments made in the written

statement and not with respect of the averments made in the affidavits filed in the interim applications. Pleadings denote the averments made in the plaint and in the written statement and not in the affidavits filed in support of the petitions. The reply statement can be filed only when there is a new facts averred in the written statement or when the plaintiff has omitted to state certain pleadings in his original plaint. Therefore, the reply statement cannot be received with respect of the averments made in the affidavits filed in the interim applications. Therefore, the reasons stated by the petitioner/plaintiff to receive the reply statement is not tenable one and therefore, it does not require consideration.

5. In the result, the petition is dismissed. No costs.

Principal District Judge,
Perambalur.