
(2002) 08 MAD CK 0045

In the Madras High Court

Case No : C.R.P. No. 173 of 2001 and C.M.P. No. 918 of 2001

Kairoon Bi

APPELLANT

Vs

Nagammal, Radhakrishnan, Gopu and Raghu

RESPONDENT

Date of Decision : 29-08-2002

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 17

Citation : (2002) 08 MAD CK 0045

Hon'ble Judges : K. Gnanaprakasam, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

K. Gnanaprakasam, J.—The Revision Petitioner herein is the Plaintiff in O.S.No.351 of 1992 on the file of the District Munsif, Chinglepet.

2. The respondents/defendants filed an application under Order 6 Rule 17 C.P.C. to amend the written statement on the ground that mistake had

crept in in the written statement filed by the first defendant, who is no more. It is the specific contention of the defendants that the plaintiff did not

purchase the property as claimed by her.

3. The plaintiff resisted the application on the ground that it was filed at a belated stage.

4. The trial Court was of the view that the amendment is necessary and allowed the petition. Aggrieved by the same, the plaintiff preferred the present Revision Petition.

5. It is settled position that amendment of the pleadings may be allowed at any stage of the proceedings, provided, such amendments are

considered necessary for the purpose of determining the real position in

controversy between the parties. It is stated that the written statement was filed by the first defendant, who is no more and the defendants have found out the mistake and filed the petition for amendment. By mere amendment of the pleadings, it would not amount to acceptance of the case of the party, who seeks for amendment. The Supreme Court in Kenchegowda (Since Deceased) by Legal representatives Vs. Siddegowda alias Motegowda, has held as follows:

when causes of action and reliefs are different, no amendment can be allowed. It cannot be said in the instant case that there is any change of

cause of action or the relief sought for is different. Ultimately, the object of Courts and rules of procedure is to decide the rights of parties and not

to punish them for their mistakes and punishing for mistakes is, of course, no administration of justice.

a party cannot be refused relief merely because of some mistake, negligence, inadvertence or even infraction of the rules of procedure. The Court

always gives leave to amend the pleading of a party, unless it is satisfied that the party applying was acting mala fide or that by his blunder, caused

injury to his opponent which may not be compensated for by an order of costs.

6. The amendment sought for in this case also would not materially affect the case of the plaintiff nor it would change the cause of action.

7. It has been uniformly held by this Court and also by the Apex Court that the power to allow an amendment is undoubtedly wide and may at any

stage be appropriately exercised in the interest of justice, the law of limitation notwithstanding. If the amendment is allowed, the opposite party

would be given an opportunity to file the objections by way of reply statement/ additional written statement. The lower Court has not shut the said

opportunity. In fact, it has been observed by the lower Court that it is left open to the respondents to file their rejoinder, if any, if so advised. As

such, I do not find any error in the order passed by the trial Court, which warrants interference by this Court.

8. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected C.M.P. is closed.