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SUPREME COURT: WRITTEN STATEMENT MUST HAVE PARAWISE REPLIES & SPECIFIC DENIALS

A. Introduction.

The Supreme Court (“**SC**”) in *Thangam and Another*,¹ held on March 4, 2024, that a written statement (“**WS**”) must have paragraph-wise reply to the plaint, otherwise allegations are deemed to be admitted, unless specifically denied.

B. Facts.

1. Suit for declaration along with injunction was filed by Navamani Ammal (“**Ammal**”) against Thangam (“**Thangam**”).
2. Ammal contended that suit property (“**Property**”) was bequeathed to her through a registered will. Therefore, Thangam has no right to claim title over the Property.
3. Thangam contended that the testator of will was not in a sound health to understand and comprehend its contents. Hence, Ammal’s claim over the Property could not survive.
4. Thangam’s WS had no specific denials to the averments made by Ammal and neither was paragraph-wise reply given to the allegations levied in the plaint.
5. The Trial Court (“**TC**”) decreed the suit in favour of the Ammal holding that the will is genuine. Thangam appealed when the TC’s judgment was reversed.
6. In the second appeal before the Madras High Court (“**HC**”). It set aside the judgment of the first appellate court and restored the TC’s judgment.
7. Aggrieved by HC order, Thangam filed Civil Appeal before the SC.

C. Parties’ Contentions before SC:

Thangam’s Contentions.

1. Mere re-appreciation of the facts to come to another possible conclusion does not fall within the scope of consideration of a matter in second appeal. No substantial question of law raised before HC.
2. Discrepancies were found in the statements of the scribe and the attesting witnesses to the will.
3. The health of the testator was not good and he was not in a position to understand and comprehend the contents of the will.
4. There were differences in the thumb impressions of the testator on the will and in the register at the Sub-Registrar’s office.

¹*Thangam and Another vs. Navamani Ammal*, (2024) INSC 164.
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Ammal's Contentions.

1. The execution of will by a person in favour of any other relative always would mean that the testator wishes to take away some property from the normal course of inheritance.
2. Thangam had not taken any step to take care of the testator during his ill health or the property left behind him.

D. SC's Judgment & Reasoning.

The SC:

1. Held that there was no contradiction between the statements made by the witnesses who attested the will and the will's scribe, and so it cannot be claimed that the testator was not competent to make the will.
3. Observed that: "*plaint filed by the respondent shows that it contains ten paragraphs besides the prayer. In the written statement filed by the appellants, no specific para-wise reply was given. It was the own story of the respondent containing fifteen paragraphs besides the prayer in para 16.*"²
4. Observed that: "*Order VIII³ Rules 3⁴ and 5⁵ Code of Civil Procedure (CPC) clearly provides for specific admission and denial of the pleadings in the plaint. A general or evasive denial is not treated as sufficient. Proviso to Order VIII Rule 5 CPC provides that even the admitted facts may not be treated to be admitted, still in its discretion the Court may require those facts to be proved. This is an exception to the general rule. General rule is that the facts admitted, are not required to be proved*".
5. Relied on its decision in *Badat and Co. Bombay* case,⁶ above rules of CPC is an integrated rule that controls the handling of petitions, and held: "*These three rules form an integrated code dealing with the manner in which allegations of fact in the plaint should be traversed and the legal consequences flowing from its noncompliance. The written statement must deal specifically with each allegation of fact in the plaint and when a defendant denies any such fact, he must not do so evasively, but answer the point of substance. If his denial of a fact is not specific but evasive, the said fact shall be taken to be admitted. In such an even, the admission itself being proof, no other proof is necessary.*"⁷
6. Relied also on *Lobia Properties (P) Ltd.* case⁸ in which SC observed that: "*What is stated in the above is, what amounts to admitting a fact on pleading while Rule 3 of Order 8 requires that the defendant must deal specifically with each allegation of fact of which he does not admit the truth. Rule 5 provides that every allegation of fact in the plaint, if not denied in the written statement shall be taken to be admitted by the defendant. What this rule says is, that any allegation of fact must either be denied specifically or by a necessary implication or there should be at least a statement that the fact is not admitted. If the plea is not taken in that manner, then the allegation shall be taken to be admitted.*"⁹
7. Upheld the HC's decision and dismissed the appeal.

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² Paragraph No. 14 of the Judgement.

³ Order 8 of CPC (*Written Statement, Set-of and Counter Claim*).

⁴ Rule 3 (*Denial to be specific*).

⁵ Rule 5 (*Specific denial*).

⁶ *Badat and Co Bombay vs. East India Trading Co*, (1964) AIR SC 538.

⁷ Paragraph 15.4 of the Judgment.

⁸ *Lobia Properties (P) Ltd., Tinsukia, Dibrugarh, Assam vs. Atmaram Kumar*, (1993) 4 SC 6.

⁹ Paragraph 15.5. of the Judgment.

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