

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2015

CORAM:

THE HONOURABLE **MR.JUSTICE K.KALYANASUNDARAM**

C.R.P.(P.D.).No.1173 of 2015 &
M.P.No.1 of 2015

V.Govindarajan

.. Petitioner

Vs

1.D.Thirunavukkarasu
2.T.Nirmalkumar
3.T.Mahesh Kumar
4.T.Suriya
5.R.Kalpana
6.Saradhadevi
7.Sandeep Kumar
8.The Sub Registrar,
Sub-Registrar Office,
Velacheri, Chennai 600 042.
9.S.Sathish Kumar @ Jagan
10.S.Jeevarathnam

..Respondents

Prayer:- The Civil Revision Petition filed under Section 227 of the Constitution of India to set aside the order of memo filed for joint trial dated 13.03.2015 in O.S.No.2375 of 2010 on the file of V Asst.City Civil Court, Chennai.

For Petitioner	: M/s.R.Arumugam
For Respondents 1 to 8	: No Appearance
For Respondents 9 & 10	: Mr.D.Senthil Kumar

ORDER

The Civil Revision Petition is directed against the order dated 13.03.2015 passed in O.S.No.2375 of 2010 on the file of the V Asst.City Civil Court, Chennai.

2. The petitioner is the plaintiff in O.S.No.2375 of 2010 on the file of the V Asst.Judge, City Civil Court, Chennai. The suit was filed originally against the defendants 1 to 8/respondents 1 to 8 for permanent injunction. After commencement of the trial, the defendants /respondents 9 and 10 have filed an application in I.A.No.13665 of 2014 under Order 1 Rule 10 of C.P.,C.to implead the defendants 9 and 10 in the suit. After contest, the Trial Court has allowed the application, which was confirmed by this Court in CRP.No.3975 of 2014 dated 07.11.2014. While dismissing the revision, this Court has directed the trial court to take up the suit and dispose of the same on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order. Subsequently, the defendants 9 and 10 have filed the written statement.

3. Thereupon, The petitioner filed O.S.No.7365 of 2014 for declaration, declaring that the rectification deed dated 18.11.2009 and two sale deeds dated 25.02.2010 and 16.09.2006 are null and void.

4. The contention of the petitioner is that he was not aware of the sale deeds and rectificatiion deed, while filing the suit in O.S.No.2375 of 2010. The petitioner filed a memo dated 13.03.2015 praying for joint trial of the suits in O.S.No.2375 of 2010 and O.S.No.7365 of 2014. The trial court rejected the memo stating that it was not maintainable, in

view of the direction of this Court in CRP.No.3979 of 2014. Aggrieved by the order, the present revision is filed.

5. Heard Mr.Arumugam, learned counsel for the petitioner and Mr.Senthilkumar, learned counsel for the respondents and perused the materials on records.

6. It is not in dispute that the petitioner has originally filed the suit in O.S.No.2375 of 2010 for permanent injunction contending that he is the owner of the property by virtue of the sale deed dated 09.07.1974 registered as document No.1840 of 1973. It is also not in dispute that in the first suit, the respondents 9 and 10 were later impeaded and they have also filed their written statement claiming the right over the property on the basis of the rectification deed dated 18.11.2009 and two sale deeds dated 25.02.2009 and 16.09.2009.

7. In view of the stand taken by the defendants 9 and 10, the petitioner has filed the second suit in O.S.No.7365 of 2014 and thereafter, filed the memo seeking for joint trial. The memo was rejected only on the ground that this Court has directed the trial court to dispose of the suit in O.S.No.2375 of 2010 within a period of four months from the date of receipt of a copy of this order.

8. Considering the nature of the prayer sought for in both the suits and claims of the respective parties, I am of the view that both the suits have to be tried jointly. Though this Court has issued the direction for disposal of the suit in O.S.No.2375 of 2010 in a time bound manner, that cannot be a ground to reject the prayer for joint trial.

9. In view of the above facts and circumstances, the impugned order dated 13.03.2015 made in O.S.No.2375 of 2010 on the file of the V Asst.Judge, City Civil Court, Chennai, is hereby set aside. The trial Court is directed to conduct the joint trial and dispose of the suits as expeditiously as possible on merits and in accordance with law. Consequently, connected miscellaneous petition is closed. No costs.

26.03.2015

kkd
Index : Yes/No
Internet : Yes/No

To

V Assistant City Civil Court,
Chennai.

K.KALYANASUNDARAM,J.,

kkd

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