

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.1265 of 2015

1.Chinnammal
2.P.Ponnusamy

... Petitioners/Defendants 1 & 2

vs.

1.Meenakshi

2.S.Sumathi

... Respondents/Plaintiffs

3.S.Parameswari

... Respondent/Defendant-3

Civil Revision Petition filed under Article 227 of the Constitution of India against the Fair and Final Order passed in I.A.No.862 of 2014 in O.S.No.38 of 2012 on the file of the First Additional District Munsif Court, Erode dated 21.01.2015 and to set aside the same.

For Petitioners : Mr.A.Sundaravadhanan

For Respondents : Mrs. S.Kaithamalai Kumaran

O R D E R

Aggrieved over the fair and final order passed in I.A.No.862 of 2014 in O.S.No.38 of 2012 on the file of the First Additional District Munsif Court, Erode, the defendants 1 and 2 have filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.38 of 2012 to declare the settlement deed executed by the first defendant in favour of the second defendant as null and void. The suit is contested by the defendants on various grounds. When the suit is posted for trial, the petitioners 1 and 2 have filed an application under Section 10 of CPC to stay the trial of the suit till the disposal of the second appeal in S.A.No.559 of 2013 pending before this Court. The earlier suit in O.S.No.116 of 2006 was filed by the respondent for partition. A preliminary decree was passed by the Trial Court and the same was also confirmed by the lower Appellate Court. Aggrieved over the same, the petitioners have filed the second appeal in S.A.No.559 of 2013. The present suit was filed in the year 2012 for the relief stated above. Though the suit is being filed in the January 2012 and the written statement is filed in September itself, the petitioners have not filed any application under Section 10 of CPC till the suit was posted for trial.

3. The second appeal was filed only in the year 2013. The Trial Court taking into consideration the case of the appellants, dismissed the application stating that the issue involved in the second appeal and in the present application are not common. As rightly held by the Trial Court, the

application under Section 10 of CPC has been filed at a belated stage. The petitioners have not explained the reason for not filing the petition at the earliest point of time.

4. I do not find any reason to interfere with the order passed by the Trial Court hence, the Civil Revision Petition is devoid of merits and the same is dismissed.

5. Learned counsel for the respondent submitted that since the suit is pending from the year 2012, the trial Court may be directed to dispose of the suit within a stipulated time.

6. Having regard to the submissions made, I direct the Trial Court to dispose of the suit in O.S.No.38 of 2012, within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

04.06.2015

Index : No
Internet : Yes

To

1. The First Additional District Munsif Court, Erode.

M. DURAISWAMY, J.,

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