

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 09.04.2015**

WEB COPY

CORAM :**THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN****C.R.P.PD (MD) .No.1411 of 2014****and****M.P. (MD) No.1 of 2014**

Rajamaniammal (died)

1. Santhi
2. Jeeva ... Petitioners/Petitioners/
Defendants 1 to 3

Vs.

Karuppiaya (died)

1. Dhanalakshmi
2. Valarmathi Sundaramoorthy
3. K.Anandan
4. Chitra Pari Baskar
5. Kannan ... Respondents/Respondents 1to6
Plaintiffs 1 to 6

Jayaprakash (deceased)

6. V.M.V.Chellasamy Udayar
7. V.M.N.Ragupatti
8. Rubarani
9. Kesavan
10.Vidhya ... Respondents/Respondents 7to12/
4 to 9 Defendants

Prayer : Civil Revision Petition under Article 227 of the Constitution of India, against the order in I.A.No.1103 of 2011, in O.S.No.527 of 2004, on the file of the Principal District Munsif Court, Dindigul, dated 03.03.2014.

For Petitioners : Mr.S.A.Ajmal Khan
For Respondents : Mr.S.P.Maharajan
for R.1 to R.6
: No Appearance
for R.7 to R.10

**ORDER**

The Civil Revision Petition is directed against the order dated 03-March-2014 in I.A.No.1103 of 2011 in O.S.No.527 of 2004, on the file of learned Principal District Munsif, Dindigul, dismissing the application filed by the petitioner under Section 10 of the Civil Procedure Code.

2. The petitioners earlier filed a suit for injunction against the eighth respondent in O.S.No.1180 of 1993, on the file of learned Principal District Munsif, Dindigul. The suit was decreed by judgment and decree dated 15.03.1996. The eighth respondent filed first appeal in A.S.No.73 of 2004, before the learned Principal Subordinate Judge, Dindigul. The first appeal was partly allowed by judgment and decree dated 28.06.2010. The first Appellate Court confirmed the judgment in respect of the properties in S.No.182/1 and 181/10A. The petitioners were given a decree of injunction in respect of two items of properties. The first Appellate Court dismissed the suit in respect of property in S.No.182/8. The decree in A.S.No.73 of 2004 was challenged before this Court in S.A.S.R.No.51459 of 2011. The Second Appeal is yet to be numbered.

3. While so, the contesting respondents filed a suit in O.S.No.527 of 2004, on the file of learned District Munsif, Dindigul. The properties, in respect of which the petitioners got an order of injunction, were also the subject matter of the said suit in O.S.No.527 of 2004. Thereafter, the petitioners filed I.A.No.1103 of 2011, under Section 10 of the Civil Procedure Code to stay the suit till the disposal of second appeal. The said application was opposed by the respondents. The learned trial Judge dismissed the application by order dated 03-March-2014.

4. Heard the learned Counsel for the concerned parties.

5. The core question is as to whether the suit in O.S.No.527 of 2004 should be stayed till the disposal of the Second Appeal filed against the judgment and decree in A.S.No.73 of 2004.

6. The plaint in O.S.No.527 of 2004 and the relative ~~several items of property~~ that the suit was instituted in respect of several items of property. The property in S.No.181/10A was also included in the suit in O.S.No.527 of 2004. The



suit in O.S.No.527 of 2004 is not liable to be stayed, solely on the ground that one of the items was the subject matter of the earlier suit and that an order of injunction was given in respect of the said property. It is open to the petitioners to contend before the trial Court that in view of the decree in O.S.No.1180 of 1993 and the related appellate decree in A.S.No.73 of 2004, the respondents are not entitled to a decree in respect of the property in S.No.181/10A.

7. There is no question of staying the subsequent suit in O.S.No.527 of 2004 till the disposal of the second appeal, which is yet to be numbered. The learned trial Judge was therefore perfectly correct in dismissing the application filed by the petitioners.

8. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

The Principal District Munsif,
Dindigul, Dindigul District

+1cc to Mr. S. P. Maharajan, Advocate Sr.No.17919

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AA/07.05.2015/3p- 3c/

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