



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2015

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD)No.142 of 2015

and

M.P.(MD)No.1 of 2015

K.Abraham Raju

.. Petitioner/Petitioner/Defendant

Vs.

K.Murugadhas

.. Respondent/Respondent/Plaintiff

Prayer: Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in I.A.No.497 of 2014 in O.S.No.161 of 2014 on the file of the Principal District Munsif Court, Kuzhithurai, dated 11.11.2014.

For Petitioner : Mr.G.Venugopal

ORDER

This Civil Revision Petition is filed against the dismissal of the application filed under Section 10 of the Code of Civil Procedure to stay the proceedings of the suit, till the final disposal of O.S.No.134 of 2012, which is pending before the Subordinate Court, Kuzhithurai.

2. Heard the learned Counsel for the petitioner.

3. The suit in O.S.No.161 of 2014 is filed by the subsequent purchaser from the petitioner's wife and that suit is also pending before the Principal District Munsif, Kuzhithurai. As the subject matters in O.S.No.134 of 2012 and O.S.No.161 of 2014 are all the same and the parties are also same, an application under Section 10 of the Code of Civil Procedure is filed by the defendant in O.S.No.161 of 2014 to stay all further proceedings till the disposal of the suit in O.S.No.134 of 2012.

4. Without touching upon the merits, it can be seen that all the parties are before the Court and the remedy of the petitioner can only be for joint trial, which will save much time, instead of asking for stay of one of the suits. The Principal District Munsif has also held that even written statement had not been filed in O.S.No.161 of 2014. As it was an application filed under Section 10 of the Code of Civil Procedure, only the trial of the suit can alone be stayed. Further proceedings of a suit can go on only after the pleadings are completed and the issues are framed. Therefore, the application was dismissed by the trial Court as premature. Further, as rightly observed by the District Munsif, it is open to the parties to take out an application for joint trial of both suits, which would also be of convenience to the parties. The suit in O.S.No.134 of 2012 is pending on the file of the Subordinate Court, Kuzhithurai and the other suit in O.S.No.161 of 2014 is pending on the file of the Principal District Munsif, Kuzhithurai. Therefore, it is

open to the parties to seek for a joint trial of both suits at appropriate time.

5. With these observations, the Civil Revision Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

SD/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

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To
The Principal District Munsif, Kuzhithurai.

+1cc to MR. M.P.SENTHIL, ADVOCATE SR NO.4521

C.R.P. (PD) No.142 of 2015
and
M.P. (MD) No.1 of 2015
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