

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.2933 of 2016

Venkatachalam : Petitioner

versus

1.Kaliyammal

2.Perumayi : Respondents

PRAYER: Revision filed against the order dated 13.4.2016, in Tr.O.P.No.43 of 2015 on the file of the Principal District Judge, Namakkal.

For petitioner :: Mr.T.Dhanyakumar

For respondents :: Mr.C.Kulanthaivel, for R-1
:: Mr.K.Velanganni, for R-2

ORDER

The first respondent filed a suit for partition in C.S.No.210 of 2014 before the Principal District Court, Namakkal. The first respondent filed another suit for declaration before the learned District Munsif, Namakkal. Thereafter, the first respondent filed original petition in Tr.O.P.No.43 of 2015 before the Principal District Court, Namakkal, praying for an order for transfer of the proceedings in O.S.No.24 of 2015, to the District Court for trial along with O.S.No.210 of 2014. The learned District Judge allowed the said application and directed transfer of the suits in O.S.No.24 of 2015 to

the District Court, Namakkal for trial along with O.S.No.210 of 2014. The said order is under challenge in this civil revision petition.

2. The learned counsel for the petitioner contended that in case the suit pending before the learned District Munsif is transferred to the Court of District Judge, the petitioner would lose an opportunity of filing first appeal before the District Court. No other contentions were raised before this Court.

3. The suit in O.S.No.210 of 2014 was filed for partition. The other suit was filed for declaration. The prayer for partition could be considered only in case the suit in O.S.No.24 of 2015 is allowed by granting a decree of declaration of nullity with regard to the earlier suit in O.S.No.210 of 2014. The parties in both the suits are one and the same. The schedule of property is also the same in both the suits. For all these reasons, the learned Trial Judge was correct in allowing the transfer petition filed by the first respondent.

4. I do not find any error or illegality in the order warranting interference by exercising revisional jurisdiction under Article 227 of the Constitution of India.

5. In the upshot, I dismiss the civil revision petition. No costs.
Consequently, M.P.No.14928 of 2016 is also dismissed.

08.11.2016

Index:Yes/no
tar

To
The District Munsif Court,

K.K.SASIDHARAN, J.

(tar)

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