

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.4428 of 2015

and

M.P.No.1 of 2015

1.V.Sekar
2.V.Balu
3.Devaki
4.Prema

... Petitioners

vs

1.D.Selvaraj
2.Alamelu
3.M.Yamuna
4.P.Loganayagi @ Premalatha
5.M.Sivakumar
6.U.Sundari
7.K.Ramani
8.V.Amudha
9.V.Manickam
10.Kothainayaki

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order of learned Principal District Munsif, Alandur, passed in I.A.No.891 of 2015 in O.S.No.516 of 2006 on 29.09.2015.

For Petitioners : Mr.V.Prakash, senior counsel
for Ms.S.Shalni

For Respondents : Mr.V.Srikanth [R1 to R8]
M/s.RRN Legal [R9 & R10] -
No appearance

ORDER

This revision arises against the order of learned Principal District Munsif, Alandur, passed in I.A.No.891 of 2015 in O.S.No.516 of 2006 on 29.09.2015.

2. O.S.No.516 of 2006 on the file of learned District Munsif, Alandur, is an action moved by petitioners/plaintiffs seeking partition. They moved I.A.No.891 of 2015 seeking permission to withdraw the memo filed on 08.08.2014 and to withdraw the suit with liberty to include the suit schedule mentioned properties in another suit viz., O.S.No.693 of 2000. The Court below, under the impugned order dismissed such application. There against, the present revision has been filed.

3. Heard learned counsel for petitioners and learned counsel for respondents 1 to 8. There is no representation for respondents 9 and 10.

4. In dismissing the application, the Court below has found that two suits have been filed seeking partition regards different properties. While the cause of action for filing the earlier suit viz., O.S.No.693 of 2000 was based on the legal notice caused to defendants for partition of properties, the cause of action for filing the present suit viz., O.S.No.516 of 2006 was that the defendants 1 and 2 took illegal custody of the suit property and forced the plaintiffs to cancel settlement deeds executed by them. At the time of filing of earlier suit itself, the plaintiffs had knowledge of properties mentioned in the present suit and despite knowledge, the plaintiffs have failed to obtain permission of the Court under Or.2 R.2 CPC to split up claims at a later stage. Without doing so, plaintiffs have filed the present application as a ruse to fill up the lacuna in both suits. Informing that cause of action for both suits were not one and the same, the Court below dismissed the application.

5. The order of the Court below preempts the petitioners/plaintiffs from agitating the non-applicability of Or.2 R.2 C.P.C. Allowing the application would prejudice the cause of respondents. Interests of justice would be met by requiring both suits to be tried jointly by learned Principal District Munsif,

Alandur and leaving it open to both sides to raise all contentions before the Court below.

Accordingly, the Civil Revision Petition is disposed of with a direction that both suits in O.S.No.516 of 2006 on the file of learned District Munsif, Alandur and O.S.No.693 of 2000 on the file of learned Principal District Munsif, Alandur shall be tried jointly. No costs. Connected miscellaneous petition is closed.

09.08.2016

Index:yes/no
Internet:yes
gm

To

1.The Principal District Munsif,
Alandur.

2.The District Munsif,
Alandur.

C.T.SELVAM, J

gm

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