

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.2434 of 2016
and
C.M.P.No.12570 of 2016

V.Arun Prasad

... Petitioner

VS

1.Malliappan
2.Mallegeswari
3.Rajasekar
4.Lakshmi Devi
5.Thilagavathi
6.Neelakantan
7.Charles
8.Sandya
9.P.C.Jayamalathi
10.Chakravarthy

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 06.04.2016 made in O.P.No.33 of 2016 on the file of Principal Judge, City Civil Court, Chennai.

For Petitioner : Mr. S.Yuvaraj

ORDER

This revision challenges the order of learned Principal Judge, City Civil Court, Chennai passed in Transfer O.P.No.33 of 2016 on 06.04.2016.

2. Respondents 1 to 3/petitioners have moved transfer petition in O.P.No.33 of 2016 pending on the file of learned Principal Judge, City Civil Court, Chennai seeking to withdraw the suit in O.S.No.6081 of 2015 from the file of XI Assistant Judge, City Civil Court, Chennai and transfer the same to the V Assistant Judge City Civil Court, Chennai, to be tried along with the suit in O.S.No.243 of 2016. While allowing such application, the Court below has observed as follows:

No doubt that both the suits are at different stage and there are some parties, who are not common in both the suits. But, the suit property, which V.Arun Prasad, plaintiff in O.S.No.6081 of 2015 claims right through sale deed dated 14.08.2015, is a portion of the suit property, which is the subject matter of O.S.No.243 of 2016. Further, the sale deed through which Arun Prasad claims right is under challenge in the subsequent suit. Therefore, to avoid multiplicity of proceedings and conflicting observations, it is just and essential that both the cases to be tried by the same Court.

3. Learned counsel for petitioner submitted that in both the suits, the dispute was not exactly the same and some parties are different. Court below erred in allowing the transfer O.P.No.33 of 2016.

4. Considering the said submissions and nature of the action, this Court is not inclined to interfere much with the order of transfer passed by the court below. To avoid delay in the action, this Court proceeds to pass orders in the present revision petition without even issuing notice to the respondents and directs that instead of joint trial ordered by the Court below, both suits may be tried together by the transferee Court.

5. The Civil Revision Petition is ordered, accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

11.08.2016

Index:yes/no
Internet:yes/no
kkd

To

The Principal Judge,
City Civil Court, Chennai.

C.T.SELVAM,J

kkd

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