

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **17.11.2016**

CORAM:

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

C.R.P.(P.D.) No.2602 of 2016 and
C.M.P.No.13408 of 2016

Samiyathal

...Petitioner

versus

Mohanraj

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 23.06.2016 made in I.A.No.6 of 2016 in O.S.No.247 of 2015 on the file of learned District Munsif Court, Kangayam.

For Petitioner : Mr.R.Prabakar

For Respondents : No appearance

ORDER

The petitioner filed application in I.A.No.6 of 2016 in O.S.No.247 of 2015 to send for documents in O.S.No.274 of 2012 on the file of learned District Munsif, Kangayam. The application was dismissed by the learned Trial Judge on the ground that the petitioner failed to indicate the purpose, for which, the documents should be called for. The order is under challenge in this Civil Revision Petition.

2. Heard the learned Counsel for the petitioner. None appears on behalf of the respondent, in spite of service of notice.

3. There are two suits pending before the learned District Munsif, Kangayam. The suit filed by the petitioner in O.S.No.274 of 2012 is for declaration and consequential injunction. The connected suit in O.S.No.247 of 2015 filed by the respondent is also for a decree of declaration and injunction. The trial in O.S.No.247 of 2015 commenced at the first instance. It was only on account of the commencement of trial, the petitioner filed an application to summon the documents. The learned Trial Judge dismissed the application only on the ground that justifiable reasons were not given by the petitioner to summon the documents.

4. Since the parties and the properties are same in both the suits, nothing prevented the petitioner from filing an application before the Trial Court for joint trial. Since such a course was not taken by the petitioner, the application submitted in the connected suit was dismissed by the Trial Court. I am therefore of the view that an equitable order should be passed taking into account the background facts.

5. The petitioner is given liberty to file a petition before the Trial Court for joint trial of the suit in O.S.No.247 of 2015 and O.S.No.274 of 2012 so as to enable him to mark the documents produced in O.S.No.247 of 2015.

6. The learned District Munsif, Kangayam is directed to take up the application and pass appropriate orders to club the matters, in view of the common issues raised in both the matters.

7. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

17.11.2016

Index:Yes/No

svki
To

The District Munsif Court,
Kangayam

K.K.SASIDHARAN, J.

(svki)

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