

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.2604 of 2016
and C.M.P.No.13410 of 2016

Sampath

... Petitioner

Vs.

1.Rajangam

2.Manohari

3.Selvi

4.Anusuya

5.Ganesan

6.Akila

... Respondents

(R2 to 6 remained exparte, hence relief given up)

Civil Revision Petition filed under Article 227 of the Civil Procedure Code against the fair and decreetal order dated 16.02.2016 made in I.A.No.289 of 2015 in O.S.No.88 of 2012 on the file of the Subordinate Court, Mannargudi.

For Petitioner : Mr.R.Rajaramani

ORDER

Challenging the fair and final order passed in I.A.No.289 of 2015 in O.S.No.88 of 2012 on the file of the Subordinate Court, Mannargudi, the 1st defendant has filed the above Civil Revision Petition.

2.The 1st respondent/plaintiff filed the suit in O.S.No.88 of 2012 for partition.

3.Since the 1st defendant failed to appear before the trial Court, he was set exparte and an exparte preliminary decree was passed on 12.04.2013. Thereafter, the 1st defendant filed an application in I.A.No.289 of 2015 under Section 10 of the Civil Procedure Code to stay all further proceedings in O.S.No.88 of 2012 till the disposal of the suit in O.S.No.25 of 2014 on the file of the Subordinate Court, Mannargudi.

4.The petitioner has stated that the suit in O.S.No.25 of 2014 was filed by him for specific performance. According to the 1st defendant, since the issues involved in both the suits are common, the suit filed by the 1st respondent in O.S.No.88 of 2012 for partition should be stayed till the disposal of the suit in O.S.No.25 of 2014.

5.It is pertinent to note that the present application was filed by the 1st defendant after the passing of the exparte preliminary decree in O.S.No.88 of 2012. The averment stated in the affidavit filed in support of the petition would establish that the 1st defendant has not made out a case

for staying the suit in O.S.No.88 of 2012. The trial Court, taking into consideration the case of both parties, rightly dismissed the application.

6.I do not find any reason to interfere with the order passed by the trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

24.08.2016

To

The Subordinate Court,
Mannargudi.

M.DURAIWAMY,J.
va

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