

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.09.2016**

CORAM:

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

C.R.P.(P.D.) No.3086 of 2016 and
CMP.No.15730 of 2016

Shivabakkiyam

...Petitioner

versus

1.Seethammal
2.Unnamalai
3.Sowndirarajan
4.Pushpa
5.A.Arumugam
6.Chandramohan

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 02.04.2016 in Tr.O.P.No.35 of 2016 on the file of Principal District Judge, Salem.

For Petitioner : Mr.S.Kalyanaraman

ORDER

The petitioner filed a suit in O.S.No.783 of 2015 before the learned Principal District Munsif, Salem, praying for a decree directing partition of the suit property and separate allotment of his share. Respondents 2 to 4 filed another suit in O.S.No.283 of 2015 before the learned III Additional District Judge, Salem, praying for a decree of

declaration and partition. Subsequently, the first respondent moved the Principal District Court, Salem for transfer of the suit in O.S.No.783 of 2015 to the file of III Additional District Court, Salem, for the purpose of trial along with O.S.No.283 of 2015. The transfer petition was allowed by the learned District Judge and a direction was issued to take up the suit in O.S.No.783 of 2015 along with O.S.No.283 of 2015 either jointly or simultaneously. The said order is under challenge in this civil revision petition.

2. The learned counsel for the petitioner contended that the petitioner filed a simple suit for partition. The other suit involves certain complicated questions with regard to the validity of a Release Deed. In case, the said suit is clubbed with the suit filed by the petitioner, it would delay the matter and as such, the learned Principal District Judge was not correct in transferring the suit.

3. There are two suits pending before two different courts. The suit filed by the petitioner for partition is pending before the learned Principal District Munsif, Salem in O.S.No.783 of 2015. The respondents 2 to 4 filed another suit in O.S.No.283 of 2015 again for a decree of partition. It is true that in the said suit, larger reliefs were claimed by

the respondents 2 to 4 herein. However, the fact remains that the property involved in O.S.No.783 of 2015 is also an item to be partitioned in O.S.No.283 of 2015. Such being the factual position, the learned Principal District Judge was perfectly correct in transferring the suit in O.S.No.783 of 2015 to III Additional District Court at Salem. I do not find any error or illegality in the transfer order warranting interference by this Court.

4. In the up shot, I dismiss the Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

30.09.2016

Index:Yes/No

svki

To

The Principal District Court, Salem.

K.K.SASIDHARAN, J.
(svki)

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