

HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2016

CORAM :

THE HONOURABLE Dr.JUSTICE S.VIMALA

CRP (NPD) No.341 of 2016
and CMP.No.1784 of 2016

Mahalakshmi
W/o.Kaliyaperumal
Paramasivam Street, Melakalkandar Kottai
Thiruchirapalli Taluk and District. ... Petitioner

VS

Rajadurai
S/o.Navaneetha Kumar
Vadamalaiyan Thottam
Puthur Village, Anthanapettai Taluk
Nagapattinam District. ... Respondent

PRAYER : Civil Revision Petition filed under Section 115 of Civil Procedure Code praying to set aside the order dated 31.10.2015 in I.A.No.91 of 2015 in A.S.No.27 of 2014 on the file of the Court of Subordinate Judge at Nagapattinam.

For Petitioner : Ms.R.T.Shyamala

ORDER

The Civil Revision Petition has been filed challenging the fair and decreetal order passed in Interlocutory Application in I.A.No.91 of 2015 in A.S.No.27 of 2015 on the file of Sub Court, Nagapattinam.

2. The petitioner herein as plaintiff has filed three separate original suits in O.S.No.275 of 2009, O.S.No.276 of 2009 and O.S.No.258 of 2009 on the file of the District Munsif Court, Nagapattinam, against three different persons as defendants, seeking eviction of the respective defendants from the respective suit property and the Court below by the judgment dated 12.06.2013 ordered eviction. Aggrieved over the same, the defendants respectively filed appeal suits in A.S.No.4 of 2014, A.S.No.27 of 2014 and A.S.No.9 of 2013 before the Sub Court, Nagapattinam.

2.1. Appeal suits in A.S.No.4 of 2014 and A.S.No.27 of 2014 are pending before the Court below, whereas the appeal suit in A.S.No.9 of 2013 was allowed on 18.07.2014. Aggrieved by the judgment passed by the court below in A.S.No.9 of 2013, the plaintiff/respondent/revision petitioner herein had preferred second appeal in S.A.No.43 of 2015 before this Hon'ble Court.

2.2. In the meantime, the petitioner herein has filed an Interlocutory Application in I.A.No.91 of 2015 in A.S.No.27 of 2014 praying to stay the proceedings before the Appellate Court till the S.A.No.43 of 2015 is decided by the High Court.

2.3. The Court below has dismissed the I.A.No.91 of 2015 in A.S.No.27 of 2014. Challenging the same, this Civil Revision Petition has

been filed.

3. Whether there is justification to set aside the dismissal of the I.A.No.91 of 2015 in A.S.No.27 of 2014, is the issue to be decided.

4. It is not in dispute that (a) there were three different suits (b) against three different persons (c) seeking eviction of three different properties. It is also not in dispute that (d) issues have been framed separately, (e) trial has been conducted separately and (f) judgment has been pronounced separately.

5. Therefore, when there is no application for joint trial and when there is no common judgment, there is no legal impediment to conduct the appeals separately. The pendency of the second appeal in respect of one appeal cannot be an impediment for the hearing of the other appeals as the issues involved is not the same.

6. The Court below has rightly considered all aspect of the matter and has chosen to dismiss the application. Therefore, the impugned order is correct and accordingly it is not liable to be set aside. The revision petition is liable to be dismissed.

7. In the result, this Revision Petition is dismissed. No costs.
Consequently, connected miscellaneous petition is also closed.

10.02.2016

ds/ogy

Index : yes/No
website : yes/No

To:
The Sub Court
Nagapattinam.

S.VIMALA ,J.,

ds

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