

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2016

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P.(PD).No.3828 of 2016

and

C.M.P.No.19533 of 2016

Rajasekar
S/o.Sivasubramaniam

.. Petitioner/Petitioner/Defendant

-Vs.-

Ramu
S/o.Selvaraj Chettiar

.. Respondent/Respondent/Plaintiff

Prayer:

Civil Revision Petition is filed under Article 227 of the Constitution of India as against the order and decree dated 16.12.2015 made in I.A.No.115 of 2014 in O.S.No.179 of 2012 on the file of the I Additional Subordinate Judge, Cuddalore.

For Petitioner : Mr.D.Ravichander

ORDER

The present Civil Revision Petition has been filed challenging the impugned order dated 16.12.2015 made in I.A.No.115 of 2014 in O.S.No.179 of

2012 on the file of the I Additional Subordinate Judge, Cuddalore, wherein the application filed under Section 151 CPC to try the suit in O.S.No.179 of 2012 jointly with O.S.No.98 of 2012 pending on the file of the same Court came to be dismissed.

2.Originally the suit properties were owned by one Saraswathi, Saradambal and Sakkubai, who were represented by the Power Agent S.Rajasekar, the revision petitioner herein. While so, one Subarayan filed the suit in O.S.No.98 of 2012 for specific performance of the sale agreement dated 25.09.2011, in respect of one shop in S.No.327/6, measuring an extent of 360 sq.ft. On the other hand, one Ramu, the respondent herein had filed the suit in O.S.No.179 of 2012 for specific performance of the sale agreement dated 20.02.2012, in respect of two shops in S.No.327/6, measuring an extent of 840 sq.ft.

3.The learned counsel for the revision petitioner would submit that the plaintiff's in both the suits are none other than the brothers. Originally, their father Selvaraj Chettiar had filed the suit in O.S.No.164 of 2011 on the file of the Principal District Court, Cuddalore and the said suit was dismissed. Thereafter, at the instigation of the father, both the sons had preferred separate suits. Hence, the revision petitioner/defendant filed the application

in I.A.No.115 of 2014 in O.S.No.179 of 2012 seeking joint trial. However, the learned Trial Judge had dismissed the said application stating that the sale agreement in both the suits are entirely different and hence, there is no reason for joint trial. As against the said order of dismissal, the present Civil Revision Petition has been preferred.

4.The learned counsel would further submit that it is true that the suit has been filed for specific performance by two different persons who are brothers. But the defendant/owner of the property is one and the same. Hence, joint trial is necessary. But the Trial Court without considering the said factum had dismissed the application.

5.At the time of admission, heard the learned counsel appearing for the revision petitioner in length.

6.Admittedly, the respondent herein had filed the suit in O.S.No.179 of 2012 for specific performance of the sale agreement dated 20.02.2012, in respect of two shops in S.No.327/6, measuring an extent of 840 sq.ft. However, Subarayan filed the suit in O.S.No.98 of 2012 for specific performance of the sale agreement dated 25.09.2011, in respect of one shop in S.No.327/6, measuring an extent of 360 sq.ft. Though the defendant in both the suits are

the same, since the sale agreement were executed on different dates and the plaintiffs are different, I am of the view that there is no need for joint trial of the suits in O.S.No.179 of 2012 and O.S.No.98 of 2012.

7.In fine, the Civil Revision Petition is dismissed as devoid of merits. Consequently, connected miscellaneous petition is closed. No costs.

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Index:Yes/No

To

I Additional Subordinate Judge,
Cuddalore.

R.MALA, J.

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