

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **11.11.2016**

CORAM:

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

C.R.P.(P.D.) No.904 of 2016

Jayaraman : Petitioner
versus

1.Kanaga Sababathy

2.Janaki

3.Lakshmi

4.Venkatesh : Respondents

PRAYER: Revision filed against the order and decree dated 18.1.2016 in I.A.No.390 of 2015 in O.S.No.164 of 2014 on the file of the Subordinate Judge, Tiruvallur.

For petitioner :: Mr.S.J.Jagadev

For respondents :: Mr.K.Balaji

ORDER

The petitioner filed an application in I.A.No.390 of 2015 in O.S.No.164 of 2014 to order joint trial of the suit along with O.S.No.43 of 2014 pending before the very same Court. The application was dismissed by the learned Subordinate Judge, Tiruvallur. The said order is under challenge in this civil revision petition.

2. The learned counsel for the petitioner contended that in both the suits, the issue is award of damages. Evidence to be adduced in both the suits are one and the same. The Court has to decide as to whether the petitioner is entitled to damages or the respondents are entitled to damages. Such being the factual position, the learned Trial Judge was not correct in dismissing the application for joint trial.

3. The learned counsel for the respondents on the other hand submitted that the suit in O.S.No.43 of 2014 is now pending for trial. In the suit filed by the petitioner, the Trial Court is yet to frame issues. According to the learned counsel, there is nothing common in both the suits and as such, the Trial Court was correct in rejecting the request made for joint trial.

4. There are two suits pending between the very same parties before the Subordinate Court, Tiruvallur. The suit in O.S.No.43/2014 was instituted by the respondents against the petitioner for damages. The cause of action for filing the said suit appears to be the judgment of acquittal in a criminal case after a period of thirteen years. The petitioner appears to have succeeded in civil cases and the same resulted in filing a suit for damages against the respondents in O.S.No.164 of 2014.

5. The learned Subordinate Court, Tiruvallur, dismissed the application primarily on the ground that two cases filed have different cause

of action. According to the learned Trial Judge, the cause of action for filing O.S.No.43 of 2014 was the initiation of criminal case. The cause of action for filing the other case is on account of a civil case. Therefore, there is nothing in common and as such, joint trial is not possible. I am not in a position to agree with the views expressed by the learned Trial Judge.

6. The suit filed by the petitioner in O.S.No.164 of 2014 and the suit filed by the respondent in O.S.No.43 of 201 were filed for damages. The petitioner succeeded in the civil case and the same resulted in claiming damages from the respondents. The respondents succeeded in criminal case and the same resulted in filing a suit for damages against the petitioner. Such being the factual position, it would be in the interest of both parties to try the suits simultaneously. I am therefore of the view that the learned Trial Judge ought to have passed an order in the matter, taking into account the nature of the suit.

7. The order passed by the learned Trial Judge is set aside. There will be a direction to the Trial Court to take up the suit in O.S.No.43/ of 2014 and O.S.No.164/2014 for simultaneous trial. The learned Trial Judge is directed to frame issues in O.S.No.164 of 2014 within a period of two weeks from the date of receipt of a copy of this order and commence the trial, so as to enable simultaneous trial of both the suits.

K.K.SASIDHARAN, J.

(tar)

8. The civil revision petition is allowed with the above observation.
No costs. Consequently, C.M.P.No.5008 of 2016 is closed.

11.11.2016

Index:Yes/no
tar

To
The Subordinate Judge, Tiruvallur

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