

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :21.04.2016

Pronounced on :03.06.2016

CORAM

The Hon'ble Mr.Justice **M.V.MURALIDARAN**

**CRP (PD) No.4244 of 2012
and
M.P.Nos.1 and 2 of 2012**

Bhaskaran

.. Petitioner

Versus

1.R.M.Kaviarasu
2.Prema
3.Rajeswari

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying against the order and decretal Order in Transfer O.P.No.22 of 2012, on the file of the Principal District Court, Namakkal, dated 12.07.2012.

For Petitioner

...Mr.C.Jagadish

For Respondent

...Mr.Dr.C.Ravichandran
for R1 to R3

ORDER

Heard the submission of Mr.C.Jagadish, learned counsel appearing on behalf of the Revision Petitioner and Mr.Dr.C.Ravichandran, learned counsel appearing on behalf of the Respondent.

2. O.S.No.121 of 2010 was filed by the 1st respondent in the present Revision Petition on the file of the District Munsif Court, Paramathi with a prayer for permanent injunction with regard to the suit property against the Revision Petitioner. In O.S.No.76 of 2012 was filed by the Revision Petitioner against the Respondents on the file of the Subordinate Court, Namakkal, seeking a relief of permanent injunction against the Respondents with regard to the same suit property.

3. Since, the Revision Petitioner wanted both the suits to be tried together, an Application was preferred under Section 24 r/w Section 151 of C.P.C before the Principal District Court, Namakkal in Transfer O.P.No.22 of 2012. The primary ground based on which the Petitioner sought for transfer of Suit to the Namakkal Court from the

Paramathi Court is that the suit property, parties to the suit, the issue to be considered, the evidences to be marked and the witnesses to be examined were the same in both the suits and if the suits were tried in different Courts, conflict of decisions might arise and hence, it is just and necessary that O.S.No.121 of 2010, on the file of the District Munsif Court, Paramathi, shall be transferred to the Namakkal Court and both the suits shall be jointly tried.

3. The Respondent has filed a Counter Affidavit in the said Transfer in O.P.No.22 of 2012 stating that the Revision Petitioner has filed in O.S.No.76 of 2012 on the file of the Subordinate Court of Namakkal with malafide intention to drag the proceedings and that there are multiple litigations filed at Paramathi and Namakkal with regard to the said suit property and in O.S.No.22 of 2010 before the District Munsif Court, Paramathi, an ad-interim injunction was granted against the Revision Petitioner and due to disobedience of the same, Contempt proceedings were initiated and ordered against the Revision Petitioner.

4. The Principal District Court, by holding that there is no connection between the two suits and the relief sought for are different

has dismissed the said Transfer in O.P.No.22 of 2012 filed by the Revision Petitioner.

5. Assailing the said order, it has been contended by the learned counsel for the Revision Petitioner that the Court below has failed to note that the subject matter of both the suits are one and the same and the issues are overlapping and hence, could be decided in a joint trial with common evidences thereby saving precious judicial time and that the scope of Section 24 of C.P.C has not been properly appreciated by the Trial Court and hence, the learned Counsel prayed that the Civil Revision Petition be allowed.

6. The learned counsel appearing for the Respondents resisted saying that the order of the Court below is well reasoned and perfectly justified and the Trial Court having found that the relief sought for is different, has rightly dismissed the Transfer O.P.No.22 of 2012 and therefore, prayed that the order of the Trial Court may be sustained.

7. The purpose behind Section 24 of C.P.C is to ensure that the interest of justice is well facilitated at the appropriate forum where the matter is heard and also to ensure that identical litigations are heard

by the same Court so that parties are not put to inconvenience. The Courts have to exercise great caution and circumspection in transferring cases from one Court to another as the same should only favour the balance of convenience between the parties being testament to the phrase "expedient in the interest of justice" and not otherwise.

8. In the case at hand, it could be categorically seen that the parties in both the suits are tried before different Courts, there is possibility of a confusion and overlapping of decisions. Hence, it has been rightly pointed out by the Petitioner that since the reliefs are identical and the pathways are identical, in the interests of justice, it is necessary that both the Suits be tried together. This fact has not been properly considered by the Learned Principal District Judge, Namakkal and thus, it has erred in passing the impugned order.

9. For the reasons stated above, the impugned order is set aside. Civil Revision Petition is allowed and accordingly, both the suits shall be tried together as prayed for in Transfer O.P.No.22 of 2012 and hence in O.S.No.121 of 2010, on the file of District Munsif Court, Paramathi, shall be transferred and be tried along with O.S.No.76 of

2012, which is pending on the file of Subordinate Court, Namakkal. Further, it is directed that both the parties shall Co-operate for early disposal of the suit and the Subordinate Court, Namakkal, shall dispose of both the suits within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

03.06.2016

Index:Yes/No
Internet:Yes/No
ub

To
The Principal District Court,
Namakkal.

M.V.MURALIDARAN, J.
ub

**PRE-DELIVERY ORDER MADE IN
C.R.P(PD)No.4244 of 2012**

03.06.2016