



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2016

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P (MD) No.1166 of 2016 (PD)

and

C.M.P. (MD) .No.5717 of 2016

1.S.Marikannu

2.S.Rajammal

3.S.Lakshmi

4.S.Muthusamy

.. Petitioners/Petitioners/Defendants 5 to 8

Vs.

1.Muthusamy

.. 1<sup>st</sup> Respondent/1<sup>st</sup> Respondent/Plaintiff

2.Somasundaram

3.Arunachalam

4.Sivakamasundari

5.Rajeswari

6.The Managing Director,  
The Jankiraman Mills Ltd.,  
Sakthi Nagar, Srivilliputhur,  
Rajapalayam Taluk,  
Virudhunagar District.

7.The Branch Manager,  
Indian Overseas Bank,  
Main Road, Sattur Town,  
Virudhunagar District.

8. The Branch Manager,  
State Bank of India,  
Sattur Branch,  
Sattur Town.

9. The Sub-Registrar,  
Office of the Sub-Registrar,  
Main Road, Sattur Town,  
Virudhunagar District.

10.The Municipal Commissioner,  
Sattur Town,  
Virudhunagar District.



11.G.P.Rajasekaran .. Respondents 2 to 11/Respondents 2 to 11/  
Defendants 1 to 4, 9 to 14

(The Respondents 2 to 11 herein remained  
Ex-parte before the Court below and therefore  
they are given up in this CRP)

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order, dated 24.03.2016, made in I.A.No.66 of 2016 in O.S.No.41 of 2012, on the file of the Sub Court, Sivakasi.

For Petitioners : Mr.M.Thirunavukkarasu

For Respondents : Mr.M.Solaisamy

### ORDER

This revision arises out of the order passed by the learned Sub Judge, Sivakasi in I.A.No. 66 of 2016 in O.S.No.41 of 2012.

2. Heard the learned counsel for the petitioners as well as the respondents and perused the records.

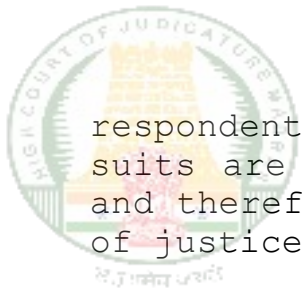
3. It is seen from the records that originally the petitioner's father namely Sakkarai @ Pappa instituted a suit in O.S.No.25 of 2007 before the Sub Court, Sivakasi for declaration that the Will dated 11.07.1988 is null and void and for partition seeking his 1/5<sup>th</sup> share in the suit property. The fifth defendant in O.S.No.25 of 2007, subsequently filed a suit before the same Court in O.S.No.41 of 2012 against the 10 defendants for declaration that the Will dated 11.07.1988 is valid and enforceable and declaration declaring that he is the absolute owner of the property and for consequential injunction.

4. The petitioners filed an application in I.A.No.66 of 2016 in O.S.No.41 of 2012 under Sections 10 and 151 C.P.C. seeking stay of further proceedings in the suit contending that their earlier suit in O.S.No.25 of 2007 in respect of the same property is pending and till the disposal of the suit, further proceedings in the subsequent suit cannot be proceeded with. The application was resisted by the respondents by filing a counter.

5. However, the learned Subordinate Judge, having found that the issues involved in both the suits are inter-connected and both have to be disposed of jointly, but eventually dismissed the application. Aggrieved over the order, the present revision has been filed.

<https://hcservices.ecourts.gov.in/hcservices/>

6. Mr.M.Thirunavaukkarasu, learned counsel for the petitioners and Mr.M.Solaisamy, learned counsel for the



respondents would submit that the issues involved in both the suits are same, both the suits are pending before the same Court and therefore both the suits can be tried together in the interest of justice.

7. In view of the submissions, this revision is disposed of directing the learned Subordinate Judge, Sivakasi to try both the suits in O.S.No.25 of 2007 and O.S.No.41 of 2012 together and dispose of them as expeditiously as possible preferably on or before 31.12.2016. Further, the learned Judge shall frame additional issues in O.S.No.25 of 2007 with regard to the genuineness of the Will. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-  
Assistant Registrar (Crl.Side)

/True Copy/

Sub Assistant Registrar (CS)

To  
The Subordinate Judge, Sivakasi.

+1cc to M/s.M.Solaisamy, Advocate, Sr.No.30701

+1cc to M/s.M.Thirunavukkarasu, Advocate, Sr.No.30571

pjl

JM/KBM/29.06.2016/3P-4C

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