



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.(PD)Nos.1694 and 1695 of 2011
and M.P.(MD) 1 and 1 of 2011

Karuppiah

..Revision Petitioner in the both CRP's

Vs.

1.Pitchaikani
2.Karikol
3.Solaiammal
4.Muthammal
5.Muthumari
6.Murugesan
7.Kannusamy
8.Renuga Devi

.. Respondents 1 to 7 in the both CRP's
.. 8th Respondent in the CRP(MD)No.1694/2011 only

COMMON PRAYER: Civil Revision Petitions are filed under Section 227 of Constitution of India against the order dated 20.06.2011 passed in Transfer O.P.Nos. 10 and 11 of 2010 on the file of the District Court, Srivilliputhur, Virudhunagar District in O.S.No.186 of 2007 and O.S.No.160 of 2005 on the file of the Principal District Munsif, ,Sivakasi.

For Petitioner : Mr.S.Satheeshkumar
For R1 to R3, R5 to R8 : Mr.S.Subbaiah

O R D E R

The Civil Revision Petitions are filed before this Court challenging the orders passed in Tr.O.P.Nos.10 and 11 of 2010 in O.S.No.186 of 2007 and O.S.No.160 of 2005 on the file of the Principal District Court,Srivilliputhur.

2. According to the petitioner, the petitioner filed Transfer Original Petitions under Section 24 C.P.C before the Principal District Court, Virudhunagar District, Srivilliputhur, to transfer the suits in O.S.No.186 of 2007 and O.S.No.160 of 2005 to be tried along with connected suit in O.S.NO.1 of 2009 which is pending before the Subordinate Court, Sivakasi.

<https://hcservices.ecourts.gov.in/Hcservices/> the learned counsel for the petitioner and the learned counsel for the respondents and perused the records.



4. The learned counsel for the revision petitioner submitted that the trial court ought not to have dismissed the transfer petitions on the ground that descriptions of properties are different. According to the revision petitioner, prayer in both suits is one and the same and in the interest of justice, both suits may be tried together in a joint trial along with O.S.No.1 of 2009.

5. According to the respondents, the suits have been filed by the different plaintiffs. The relief sought for in the suit and the extent of properties are different. Therefore, the Principle District Court has rightly dismissed the Transfer Original Petitions. The learned counsel prays for dismissal of the revisions.

6. On perusal of records it is seen that one Renuka Devi filed O.S.No.1 of 2009 for declaration and recovery of possession and enjoyment of the schedule property before Subordinate Court, Sivakasi. One Karikolraj and four others have filed the suit in O.S.No.186 of 2007 for permanent injunction against one Karuppaiah on the file of the District Munsif Court, Sivakasi. One Karuppaiah filed O.S.No.160 of 2008 for recovery of possession against one Pitchaikani and 6 others on the file of the Subordinate Court, Sivakasi.

7. It is submitted by the learned counsel for the respondent that evidence of both parties were concluded in O.S.No.186 of 2007 and the case was posted for judgment. In O.S.No.160 of 2005 evidence was commenced and the case posted for cross-examination of defendant's side evidence.

8. After hearing both parties concerned, the District Court has come to the correct conclusion that the properties in O.S.No.160 of 2005 and O.S.No.186 of 2007 is entirely different in respect of Survey numbers and four boundaries. Further it is observed that the petitioner has not established the suit properties in O.S.No.160 of 2005 and O.S.No.1 of 2009 are one and the same.

9. On perusal of the order of the trial court, it is very clear that the properties in both suits are different and the petitioner has not proved both properties are one and the same.

10. In view of the facts and circumstances of the cases, this Court is not inclined to accept the contentions raised by the revision petitioner to transfer the suits and there is no error in the order passed by the trial court. Hence, the Civil Revision Petitions are dismissed. No costs. Consequently, connected M.P. (MD) Nos. 1 and 1 of 2011 are also dismissed.

Sd/-

Assistant Registrar



To

1.The District Judge,
Srivilliputhur,
Virudhunagar District
,

2.The Principal District Munsif,
Sivakasi

+2 ccs to Mr.S.Satheesh Kumar, Advocate, SR.No.64624 & 64408

+One cc to Mr.S.Subbiah, Advocate, SR.No.63918

CM

RL/6C/3P/SS3/9.12.2016

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