

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

**CRP.PD.No.1283 of 2017
and CMP.No.5998 of 2017**

Sakunthala

.. Petitioner

vs.

1.N.Devaki
2.D.Shankar
3.v.Ravishankar
4.The Sub Registrar,
 Tambaram, M.E.S.Road,
 Tambaram, Chennai 600 045.
5.Vimala Bai
6.M.Johnson

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order and decretal order dated 30.01.2017 made in I.A.No.2 of 2017 in O.S.No.47 of 2012 on the file of the District Munsif Court Tambaram.

For petitioner : Mr.Mr.Ravichandran for
M/s.L.Baskaran

JUDGMENT

This Civil Revision Petition has been filed to set aside the fair and decretal order, dated 30.01.2017 passed in I.A.No. I.A.No.2 of 2017 in O.S.No.47 of 2012 on the file of the District Munsif Court Tambaram.

2. The petitioner is the plaintiff and the respondents are the defendants 1 to 4 in the suit in O.S.No.47 of 2012. The petitioner filed the suit for declaration and for consequential injunction restraining the respondents from interfering with the peaceful possession and enjoyment of the suit property against the respondents 1 to 4. Subsequently, the petitioner impleaded the respondents 5 and 6 as parties/defendants. The petitioner has filed O.S.No.113 of 2013 on the file of the District Munsif Court, Tambaram seeking permanent injunction against the respondents 1 to 3 and 5.

3. The Trial Court had commenced the trial and P.W.1 was examined in chief and the case is pending for cross examination of P.W.1 from 27.09.2013. Now the petitioner has filed I.A.No.2 of 2017 in O.S.No.47 of 2012 under Section 151 of C.P.C. to try the suit along with O.S.No.113 of 2013 for joint trial of both the suits on the ground that the parties and the documents are one and the

same. Unless the joint trial is conducted, there will be conflicting Judgment and multiplicity of proceedings.

4. The respondents filed a counter and denied the averments made in the petition. It is stated that the parties in both the suits are not one and the same and there may not be any conflicting judgment or multiplicity of proceedings.

5. The learned Trial Judge, considering the fact that the trial has commenced in O.S.No.47 of 2012 and pending for cross examination of P.W.1 from 27.09.2013 and in the other suit O.S.No.113 of 2013, the trial is yet to be commenced, dismissed the said application holding that the joint trial cannot be granted, but simultaneously trial can be conducted. Against the said order, dated 30.01.2017, the present civil revision petition is filed.

6. From the perusal of the records, it is seen that the petitioner has filed O.S.No.47 of 2012 for declaration and consequential injunction against the respondents 1 to 4. Subsequently, he filed O.S.No.113 of 2013 for permanent injunction in respect of the same property against the respondents 1 to 3 and 5.

The petitioner has sought for declaration and consequential injunction in O.S.No.47 of 2012 and the relief sought for in O.S.No.113 of 2013 is only an injunction. In view of the relief sought for in the suits, there is no necessity to conduct the joint trial and the contention of the petitioner that there may be conflicting Judgment and multiplicity of proceedings has no force.

7. Further, the trial has commenced in O.S.No.47 of 2012 in the year 2013 itself and it is pending for cross examination of P.W.1 from 27.09.2013. The petitioner has filed the present I.A.No.2 of 2017 for joint trial only in the year 2017. However he has not given any reason for not filing the application for joint trial earlier.

8. In the above circumstances, the learned District Munsif, Tambaram had dismissed the I.A.No.2 of 2017 and there is no illegality or infirmity in the said order warranting interference by this Court. Hence this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

9. Considering the fact that the suit is of the year 2013 and pending from

27.09.2013 for cross examination of P.W.1, this Court directs the learned District Munsif, Tambaram to dispose of the suit in O.S.No.47 of 2012, as expeditiously as possible, in any event, not later than 31st September 2017.

10.04.2017

Index : Yes/No
Internet : Yes/No
kkd

To

- 1.The District Munsif Court Tambaram.
- 2.The Sub Registrar,
Tambaram, M.E.S.Road,
Tambaram, Chennai 600 045.

V.M.VELUMANI,J.

kkd

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