

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

**C.R.P.(PD)No.603 of 2017
and
CMP.Nos.3108 & 3109/2017**

1.N. Lakshmi
2.S.Nagarajan

.. Petitioners

Vs.

1. A. Kumar
2.P.Banupriya
3.V.Radha

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order made in Tr.O.P.No.90 of 2015 dated 13.04.2016 on the file of the Principal Judge, City Civil Court, Chennai.

For Petitioners

: Mr.A.C.Kumaragurubaran

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order made in Tr.O.P.No.90 of 2015 dated 13.04.2016 on the file of the Principal Judge, City Civil Court, Chennai.

2. The petitioners filed Transfer Original Petition in Tr.O.P.No.90/2015 to transfer the suit in O.S.No.4941/2011 pending on

the file of V Additional Judge, City Civil Court, Chennai, to be tried along with A.S.No.502/2012 or vice versa on the file of III Additional Judge, City Civil Court, Chennai, for simultaneous disposal of the suit in O.S.No.4941/2011 and A.S.No.502/2012.

3. According to the petitioners, a suit was filed in O.S.No.14712 of 2010 on the file of the V Assistant Judge, City Civil Court, Chennai, against the respondent for permanent injunction and the said suit was dismissed and they have filed an appeal in A.S.No.502/2012 and the same is pending on the file of Principal Judge, City Civil Court, Chennai.

4. The petitioners subsequently filed a suit in O.S.No.4941/2011 for partition, which is pending on the file of III Additional Judge, City Civil Court, Chennai. The petitioner has sought for transfer of O.S.No.4941/2011 to the file of III Additional City Civil Court, Chennai, to be tried along with A.S.No.502/2012.

5. According to the petitioners, the issues involved in both the Suit and Appeal Suit are one and the same. The learned Principal Judge, City Civil Court, Chennai, dismissed the application on the ground that earlier suit was filed for bare injunction and subsequent suit is for

partition and the cause of action and relief sought for in both the cases are different and both the Suit and Appeal Suit are pending at different stages.

6. Aggrieved against the same, the petitioners have filed the present Civil Revision Petition.

7. The grievance of the petitioners is that the court below has failed to consider that the issue involved in the suit as well as in the Appeal Suit is one and the same and hence, both of them may be heard together in order to avoid multiplicity of proceedings. The said contention is devoid of merits. Earlier, the suit in O.S.No.14712 of 2010 is for bare injunction and after trial, the suit was dismissed and the petitioners have filed the First Appeal in A.S.No.502/2012. Subsequently, the suit in O.S.No.4941/2011 is filed for partition. The evidence required to prove the case of the petitioner in O.S.No.4941/2011 and the relief sought for are entirely different and it is not correct to state that the issue involved in both the Suit and Appeal Suit are one and the same. However, the suit in O.S.No.147/2010 was already dismissed and Appeal Suit in A.S.No.502/2012 is pending for the nature of relief sought for and pendency of the said appeal are in different stages and both cannot

be heard together and it will not conflict the decisions.

8. On perusal of the materials on record, after hearing the submissions made by learned counsel for the petitioners and considering the above facts and circumstances, this court opines that there is no illegality or irregularity in the order passed by the learned Trial Judge warranting interference by this Court.

In the result, the Civil Revision Petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

24.04.2017

gv

Speaking / Non-speaking order

Index
:Yes/No

To

The Principal Judge,
City Civil Court,
Chennai.

V.M.VELUMANI,J.,

gv

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