

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.06.2017

Coram:

The Honourable Ms.**Justice V.M.VELUMANI**

C.R.P.(PD)No.2226 of 2010  
and M.P.No.1 of 2010

Rajendran

... Petitioner

Vs.

Balakrishnan

... Respondent

**Prayer:** Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 12.03.2010 in I.A.No.12 of 2009 in O.S.No.575 of 1997 on the file of the Principal District Munsif Court, Gingee.

For Petitioner : Mr.G.Rajan.

For Respondent : Mr.D.Ravichandran

**ORDER**

This Civil Revision Petition is filed against the order dated 12.03.2010 in I.A.No.12 of 2009 in O.S.No.575 of 1997 on the file of the Principal District Munsif, Gingee.

2. The petitioner is the 7<sup>th</sup> defendant and the respondent is the plaintiff in O.S.No.575 of 1997. The respondent filed the suit to declare that he has right and possession of the suit property and for permanent injunction. He is relying on two documents namely koor chit dated 16.03.1984 with regard to the suit property and consent deed dated 04.09.1985 executed by the petitioner's father in favour of respondent's father with regard to the electricity connection for 5HP electric motor pump set in the well situated in the suit property.

3. According to the petitioner, both the documents are forged and concocted created for the purpose of filing the suit. He has stated that his father is having 1/3rd share in the suit property and also in the said electricity connection. He further stated that the respondent already filed a suit in O.S.No.181 of 1997 with regard to electricity connection and the suit was decreed in favour of the respondent. The petitioner filed an appeal in A.S.No.120 of 2005 and the same is pending.

4. The petitioner filed I.A.No.12 of 2009 in the present suit in O.S.No.575 of 1997 under Section 10 of CPC to stay all further

proceedings of the suit, till the disposal of the A.S.No.120 of 2005.

5. The respondent filed counter affidavit opposing the said application and submitted that A.S.No.120 of 2005 is filed only for one item, whereas the present suit is for twenty five items and hence the present suit cannot be stayed.

6. The learned Judge considering the averments made in the affidavit, counter affidavit and materials available on record, by order dated 12.03.2010 dismissed the application on the ground that the present suit cannot be stayed as subject matter in the present suit is with regard to twenty five items whereas the subject matter in A.S.No.120 of 2005 is with regard to only one item.

7. Against the order dated 12.03.2010 in I.A.No.12 of 2009, the present Civil Revision Petition is filed by the petitioner.

8. Heard both sides and perused the materials available on record.

9. From the materials available on record, it is seen that the petitioner filed I.A.No.12 of 2009 in O.S.No.575 of 1997 to stay all

**V.M.VELUMANI, J.**

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further proceedings of the suit pending disposal of A.S.No.120 of 2005. The present suit cannot be stayed as subject matter in the present suit is with regard to twenty five items, whereas the subject matter in A.S.No.120 of 2005 is with regard to only one item. The parties in the suits are different persons and trial in the present suit has commenced. The learned Judge considering these facts dismissed the application by giving cogent and valid reason. There is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 12.03.2010.

10. In the result the Civil Revision Petition is dismissed. No costs. Consequently connected Miscellaneous Petition is also closed.

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Index: Yes/No  
speaking order/non speaking order

To

The Principal District Munsif Court,  
Gingee.

**C.R.P.(PD)No.2226 of 2010**