

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2017

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

CRP PD.No.3551 of 2016

and

CMP No.18060 of 2016

G.V.Rajagopal Chetty

... Petitioner

Vs

1.T.Visalatchi

2.R.Priya

3.R.Nithya

4.R.Surya

5.V.Maduramuthu

6.V.Ranganatha @ Rangan

7.Ezhilarasan

8.Sundaravel

9.Poongodi

10.Megavardhini

11.Poorni

12.Indirapuriammal @ Indiraniammal

13.E.G.Ramesh Babu

14.P.Anandaraj

15.P.S.Viswanatha Reddy

16.Gomathi Devi

17.G.Aravind Raj

18.T.Balasubramani

19.M.S.Suresh Kumar

20.K.Karthikeyan

21.Santha Prabakaran

22.P.N.Srinivasa Reddy

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order of transferring the case in O.S.No.221 of 2010 from District Munsif Court, Hosur to Additional District Judge, Hosur and to try along with O.S.59 of 2014 by order passed in Transfer Original Petition No.15 of 2015 dated 07.03.2016 on the file of the Principal District Judge, Krishnagiri.

For Petitioner :: Mr.S.C.Vishwanth

For Respondent :: Mr.P.M.Duraisamy for R1 to R4

O R D E R

This revision is filed by the plaintiff in O.S.No.221 of 2010 challenging the order passed in Transfer O.P on the file of the Principal District Judge, Krishnagiri.

2.The suit O.S.No.221 of 2010 is filed for declaration of easementary right by the plaintiff and for permanent injunction with respect to the common pathway cum cart track. The suit in O.S.No.59 of 2014 was filed by the seventh respondent for partition and for separate possession with respect to 3/8 share of the plaintiff's suit properties. The plaintiff in O.S.No.221 of 2010 is shown as the fifth defendant in other suit and transfer OP was filed by the defendants 17 to 20 in O.S.No.59 of 2014 for want of trial. The Principal District Judge, Krishnagiri allowed the same for simultaneous trial. The grievance of the petitioner who is plaintiff in O.S.No.221 of 2010 is that his claim is only with respect to easementary right against three of the defendants who are parties in other suit filed for partition. The cause of action for both the suit are different and the relief sought for is also different. The plaintiffs in O.S.No.221 of 2010 is asking for ownership of easementary

right. Though the District Judge has specifically found that the reliefs in both the suits and the parties in both the suits are different, however thought fit to order for simultaneous trial. But in the partition suit, there are about 21 defendants and the pleadings are not yet completed whereas in O.S.No.221 of 2010, the pleadings are completed and it is right for trial. The partition suit is filed only in the year 2014. The suit in O.S.221 of 2010 is pending from the year 2010.

3.Considering the limited prayer sought for in the plaint and that the learned counsel for the petitioner sought for trying the suit in O.S.No.221 of 2010 separately, the suit in O.S.No.221 of 2010 is separated from O.S.No.59 of 2014 and retransferred. It is stated that pursuant to the order of transfer, the papers in O.S.No.221 of 2010 are sent to the Additional District Judge, Hosur. In view of the order now passed, the papers in O.S.No.221 of 2010 shall be sent back to the District Court, Hosur and the District Munsif Court, Hosur is directed to complete the trial within a period of six months. With the above direction, the civil revision petition is disposed of. No costs. The connected miscellaneous petition is closed.

01.02.2017

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PUSHPA SATHYANARAYANA,J.

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To

1.The District Munsif Court,
Hosur.

2.The Additional District Judge,
Hosur.

CRP PD No.3551 of 2016

01.02.2017

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