

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **22.06.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D).No.2663 of 2013 and
M.P.No.1 of 2013

H.Abdul Subhan

...Petitioner

Vs

1.Liagath Ali
2.Sardar
3.Mubarak Ali
4.Sowkath Ali
5.Magbul
6.BeeBeejan
7.Sharanbee
8.Heerajan
9.Sharmila
10.Apsara
11.Shajahan

...Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 29.01.2013 made in I.A.No.200 of 2011 in O.S.No.55 of 2010 by the Learned District Munsif Cum Judicial Magistrate, Pennagaram.

For Petitioner : Mr.S.Saravanakumar

For Respondents : Mr.M.Selvam for R1 to R6 & R8 to R11

ORDER

The interlocutory application filed by the petitioner for impleading the plaintiff in O.S.No.55 of 2010 on the file of the District Munsif Cum Judicial Magistrate, Pennagaram, was dismissed by the Trial Court on the ground that the proposed parties are not necessary parties in the civil suit. The order is under challenge this Civil Revision Petition.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. There are two suits between the parties with respect to the very same property. The petitioner filed a civil suit in O.S.No.55 of 2010 for declaration and injunction. There is another suit in O.S.No.63 of 2010, wherein petitioner was shown as a defendant. The petitioner with a view to implead the plaintiff in O.S.No.63 of 2010 filed an application in I.A.No.200 of 2011, primarily on the ground that the property is one and the same in both the civil suits and as such, the plaintiff in O.S.No.63 of 2010 is a necessary party in O.S.No.55 of 2010. There is no question of impleading the parties in the subsequent suit as a party to the earlier suit filed for declaration, in view of the fact that both the suits are pending before the very same Court. It always open to the

petitioner to file an application before the Trial Court for joint trial of the two civil suits or at least simultaneous trial of the two suits, given the nature of the declaration sought for by the petitioner.

3. I am, therefore, of the view that the Trial Court was correct in dismissing the application. However, I make it clear that in case an application is filed for joint trial or simultaneous trial, the same shall be considered by the Trial Court on merits, taking into account the fact that the suit property is one and the same and the plea of declaration is made by the petitioner as well as the respondents in their respective suits.

4. The Civil Revision petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

22.06.2017

dna/gms

To

The District Munsif Cum Judicial Magistrate,
Pennagaram.

K.K.SASIDHARAN,J.

dna

C.R.P.(P.D.) No.2663 of 2013

22.06.2017