

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

**CRP(PD)No.4869 of 2013
and
M.P.No.1 of 2013**

1.P.Ramasamy
2.R.Chinnasamy
3.S.V.Ramachandran
4.B.K.Palanisamy
5.P.R.Arulmoli
6.K.R.Chinnaswamy

.. Petitioners

Vs

1.P.R.Govindarajulu

2.G.Arunkumar

3.Perianaickenpalayam Town Panchayat,
rep. by its Executive Officer,
Coimbatore.

4.The District Collector, सत्यमेव जयते
Coimbatore.

5.The Assistant Commissioner,
H.R. & C.E. Admn., Department,
Dr.Balasundaram Road,
Coimbatore - 18.

6.The Joint Commissioner,
H.R. & C.E. Admn., Department,
Dr.Balasundaram Road,
Coimbatore - 18.

7.The Commissioner,
H.R. & C.E. Department,
Chennai.

8.Sennar Maniam P.V.Sreenivasan

9.The Fit Person
Arulmigu Mariamman Temple,
Periyanaickenpalayam,
Coimbatore.

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed in Tr.O.P.No.126 of 2013 on the file of the Principal District Judge, Coimbatore, dated 03.10.2013 and allow the Revision Petition by withdraw the suit in O.S.No.968 of 2004 on the file of the III Additional District Munsif, Coimbatore and transfer the same to the Principal Subordinate Court, Coimbatore to try along with O.S.Nos.305 and 306 of 2011.

For Petitioners : Mr.V.Sivakumar

For Respondents : Mr.Hariharan (for R2 and R3)
for Mr.V.Nicholas

Mr.G.Sugumaran (for R1 and R8)

No Appearance (for R4 to R7 & R9)

WEB ORDER COPY

The instant Civil Revision Petition is preferred against the fair and decretal order passed in T.R.O.P.No.126 of 2013 on the file of the learned Principal District Judge, Coimbatore, dated 03.10.2013.

2.The Petitioners herein are the Petitioners in the T.R.O.P.No126 of 2013 and they are Plaintiffs in O.S.No.968 of 2004 pending on the file of the learned 3rd Additional District Munsif, Coimbatore. They filed the said suit against the Respondents herein who are the defendants in the aforesaid O.S.No.968 of 2004. The said suit was filed for the relief of permanent injunction.

3.The very same Petitioners filed another two suits in O.S.Nos.305 of 2011 and 306 of 2011 pending on the file of the learned Subordinate Judge, Coimbatore. The reliefs sought for in the said suits are to set-aside the order of the Commissioner of HR & CE passed in A.P.Nos.42 of 2009 and 43 of 2009 which are relating to the management of the aforesaid suit temple. According to the Learned Counsel for the revision Petitioners, since the parties in the aforesaid three suits and the subject matter of all the three suits are one and the same, in the interest of justice and to avoid the multiplicity of proceeding and also to avoid contradictory findings in same matter the Original Suit in O.S.No. 968 of 2004 ought to have been transferred to the file of the learned Principal Subordinate Judge, Coimbatore, in order to try along with the pending suits in O.S.Nos.305 and 306 of

2011.

4.The Learned Counsel for the Revision Petitioners would further add the grounds raised in the Transfer Original Petition were not duly considered by the Trial Court, hence the revisional jurisdiction of this Court in the interest of Justice is to be exercised and to set-aside the order passed therein.

5.Per contra, the learned counsels appearing for the Respondents would submit that though the parties are one and same, the subject matter and prayer of the suit in O.S.No.968 of 2004 pending on the file of the Learned District Munsif, Coimbatore and other suits in O.S.No.305 and 306 of 2011 pending on the file of learned Principal Subordinate Judge, Coimbatore are having different prayers and these suits cannot be clubbed with or tried jointly as these suits are having distinct prayer with one another order. Hence, according to the learned Counsels for the respondents the order passed in the aforesaid Transfer Original Petition needs no interference.

6.I heard Mr.V.Sivakumar, learned counsel for the petitioners,

Mr.Hariharan for Mr.V.Nicholas, learned counsel for the respondents 2 and 3 and Mr.G.Sugumaran, learned counsel for the respondents 1 and 8 and perused the materials available on record. No representation on behalf of the respondents 4 to 7 and 9.

7.The short point to be decided here in the Civil Revision Petition is that the prayers made in the aforesaid three suits whether one and the same or distinct in nature. Hence, the prayers made in the three suits are set-out below:

"In O.S.No.968 of 2004 the prayers sought for are as follows:

(a) Restraining the defendants 1 to 3 and their man from constructing any commercial complex building in the suit property in any manner whatsoever by means of permanent injunction;

(b) Restraining the defendants 1 to 3 and their men from permitting mutton stall or vegetable vendors or any other persons to install their shop inside the suit property in any manner whatsoever by means of permanent injunction.

(c) Directing the defendants 1 to 3 to pay cost of the Plaintiffs.

(d) Grant such other and further orders as this Hon'ble Court may deem fit and proper in the Circumstance of the suit and thus render justice."

8.The Prayer sought for in O.S.Nos.305 and 306 of 2011 are as follows:

(a) Setting aside the order of the 5th defendant in A.P.No.42 of 2009 Dated 28.12.2010 confirming the order of the 4th defendant in O.A.No.19 of 1998 Dated 30.07.2007 and consequently the allowing the prayer of the Plaintiff in O.A.No.19 of 1998.

(b) Directing the Defendants 1 and 2 to pay the costs to the plaintiffs.

(c) Granting the Plaintiffs further or other Relief as this Court may deem fit and proper under the circumstance of the case and thus under render justice.

9.It is seen from the records that though the parties are one and the same, the perusal of the prayers made in the aforesaid three suits are distinct in nature. Apart from that the prayer of the suit in O.S.No.968 of 2004 is the original prayer and the prayers sought for in the other two suits are the challenge made against the order passed by the Commissioner, HR & CE. So, these suits cannot be clubbed together. Hence, in the considered opinion of this Court, the order passed in the Transfer Original Petition is legally correct which needs

no interference.

10.In the result, this Civil Revision Petition is dismissed, by confirming the order passed in Tr.O.P.No.126 of 2013, dated 03.10.2013, by the learned Principal District Judge, Coimbatore. No costs. Consequently, connected miscellaneous petition is closed.

23.02.2017

vs

Note:Issue order copy on 28.01.2019

Index:Yes/No

Internet:Yes/No

To

The Principal District Judge, Coimbatore.

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M.V.MURALIDARAN,J.

VS



**Pre-delivery order made in
CRP(PD)No.4869 of 2013
and
M.P.No.1 of 2013**

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