

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(NPD)No.4778 of 2012
M.P.No.1 of 2012

Vedammal

.. Petitioner

Vs.

1. A.Selvaraj
2. Amirtham
3. Valarmathi
4. Elayaraja
5. S.Ayyanar
6. Hari
7. Patchiappan
8. Ramesh
9. Ganesan
10. Jayakumar

.. Respondents

PRAYER: Civil Revision Petition filed Under Section 115 of C.P.C., against the fair and decretal order dated 06.10.2012, made in Tr.O.P.No.133 of 2012, on the file of the Principal District Judge, Salem.

For Petitioner

: Mr.R.Sivakumar

For R1

: Mr.G.Anandakumar

For RR2, 5, 6, 8 to 10 : No appearance

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ORDER

This civil revision petition has been filed against the fair and decreetal order dated 06.10.2012, made in Tr.O.P.No.133 of 2012, on the file of the Principal District Judge, Salem.

2. Petitioner is the 1st defendant, 1st respondent is the plaintiff, respondents 9 and 10 are the defendants 2 and 3 in O.S.No.104 of 2010 on the file of the District Munsif, Salem. The petitioner filed Tr.O.P.No.133 of 2012 to withdraw the suit in O.S.No.104 of 2010 from the file of the 1st Additional District Munsif, Salem and transfer the same to the file of the Court of 1st Additional Sub-Judge of Salem, to be tried along with the suit in O.S.No.530 of 2010 pending before the 1st Additional Sub-Judge, Salem. The learned Principal District Judge, by the order dated 06.10.2012, dismissed the Tr.O.P.No.133 of 2012.

3. Against that order of dismissal dated 06.10.2012, made in Tr.O.P.No.133 of 2012, the present civil revision petition is filed by the petitioner.

4. Heard the learned counsels appearing for the petitioner and 1st respondent and perused the materials on record.

5. From the materials on record, it is seen that the O.S.No.104 of 2010 was filed by the 1st respondent for permanent injunction against the petitioner and respondents 9 and 10. Whereas the petitioner filed a suit in O.S.No.530 of 2010 for partition against the respondent 1 to 8 herein. It is seen that the parties, cause of action and relief sought for in both the suits are different. Further, trial in O.S.No.104 of 2010 has commenced and it is in part heard stage, for cross examination of PW1. Whereas in O.S.No.530 of 2012, the pleadings are yet to be completed.

6. The learned Judge, dismissed the application on the ground that in O.S.No.104 of 2010, trial commenced and is pending in part heard stage. Further, the respondents 2 to 8 are not parties

in the O.S.No.104 of 2010. The relief sought for, issue to be decided and the cause of action in both the suits are different.

Considering all the above facts, the learned Principal District Judge, dismissed the Tr.O.P.No.133 of 2012. In the said circumstances, I

hold, that there **V.M.VELUMANI, J.**

gsa

is no irregularity or illegality in the order passed by the learned Judge, warranting interference by this Court.

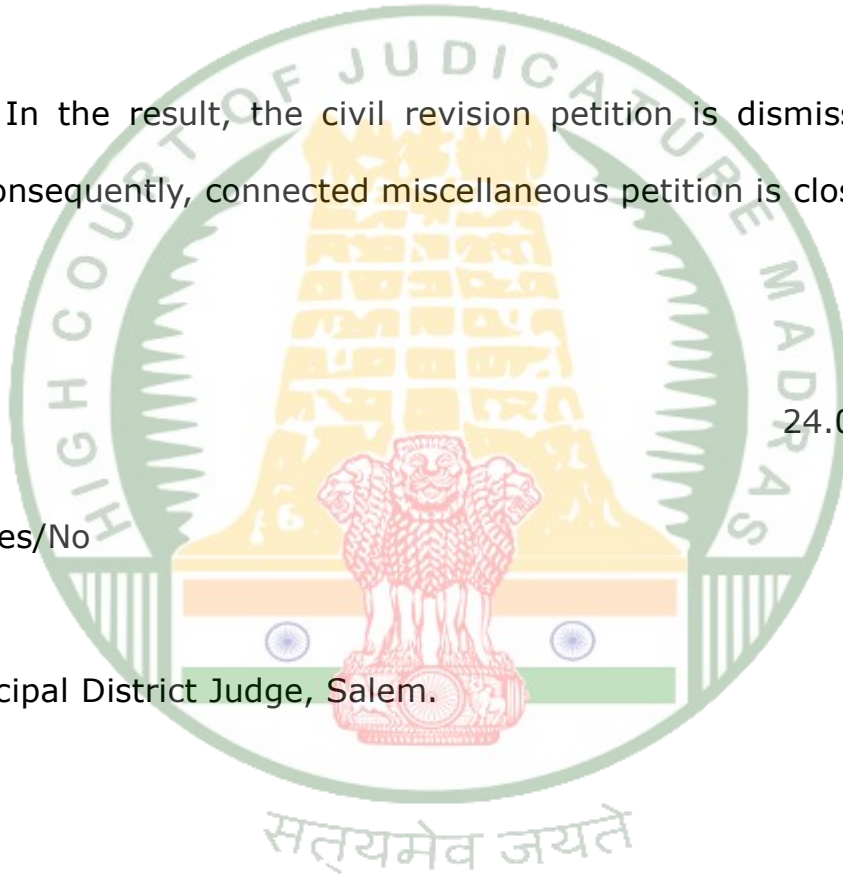
7. In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.07.2017

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Index: Yes/No

To

The Principal District Judge, Salem.



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