

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.11.2017

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THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

CRP(PD)No.883 of 2006

and

C.M.P.No.8471 of 2006

B.S.Gnanadoss

.. Petitioner

Vs.

1.Moobarak Begum Munisa

2.Dasarathan

3.The District Collector,
Sathuvacherry, Vellore.

4.The Tahsildar,
Vaniyambadi.

5.The Village Administrative Officer,
Nariyampattu,
Vaniyambadi Taluk.

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decreetal order in Memo dated 07.02.2006 in O.S.No.112 of 2003, on the file of the Principal District Munsif, Ambur.

For Petitioner :M/s.V.Srimathi

For Respondents :Mr.T.Jayaram Raj
Government Advocate (CS)
for R3 to R5
Mr.K.Nagarajan for R2

ORDER

This petition is filed against the order and decreetal order in Memo dated 07.02.2006 in O.S.No.112 of 2003, on the file of the Principal District Munsif, Ambur.

2. The defendant in O.S.No.297 of 2004 has filed the transfer petition in Tr.O.P.No.7 of 2005 before the learned Principal District Judge, Vellore, seeking the transfer of suit

from the file of learned Principal District Munsif, Ambur, to the file of Additional District Munsif Court, Ambur, to be tried along with O.S.No.112 of 2004.

3. Considering both sides case, the learned Principal District Judge, Vellore, by her order dated 15.12.2005, allowed the said transfer original petition in Tr.O.P.No.7 of 2005 and transferred the suit in O.S.No.297 of 2004, from the file of Principal District Munsif, Ambur to the file of Additional District Munsif Court, Ambur, to be tried along with O.S.No.112 of 2004. Thereafter, this petitioner filed a memo before learned Additional District Munsif-cum-Judicial Magistrate, Ambur, seeking joint trial of both the suits and under the impugned order, simultaneous trial was ordered by the learned Additional District Munsif Court, Ambur. Challenging the said order, the plaintiff has filed this Civil Revision Petition on the ground that the learned Principal District Judge, Vellore has ordered transfer of suit from the file of learned Principal District Munsif Court, Ambur, to the file of Additional District Munsif Court, Ambur, to be tried along with O.S.No.112 of 2004.

4. I Heard Ms.V.Srimathi, learned counsel appearing for the petitioner and Mr.T.Jayaram Raj, learned Government Advocate (CS) appearing for respondents 3 to 5.

5. The relevant portion of the order passed by learned Principal District Judge, Vellore, dated 15.12.2005, reads as follows:

7."While considering the arguments of both counsel and on perusal of the entire case records the subject matter of both the suits are one and the same. One suit is for bare injunction and another suit is for declaration of title and for recovery of possession. In these circumstances if both suits are tried by one Court it will avoid multiplicity of proceedings and conflict of judgment. In these circumstances it is the fittest case to try by one Judge. While considering the averments in the petition, the second respondent is closely related with court staff of Principal District Munsif Court, Ambur. It is well settled principles of law that it is the duty of the Court to render justice. Since the petitioner afraid that he will not get justice in that court. Since the second respondent is closely related to the court staff of Principal

District Munsif Court, Ambur, the case is transferred to Additional District Munsif Court, Ambur".

8. In fine this petition is allowed ordering to transfer the suit in O.S.No.297 of 2004 pending on the file of Principal District Munsif, Ambur to the file of Additional District Munsif, Ambur to be tried along with the suit in O.S.No.112/2003 pending on the file of Additional District Munsif, Ambur. No costs.

6. Once, the learned Principal District Judge, Vellore, issued a direction for joint trial under order dated 15.12.2005, the learned Additional District Munsif-cum-Judicial Magistrate, Ambur, cannot order simultaneous trial. Therefore, this Court is of the view that the order under challenge warrants interference by this Court and accordingly, the same is liable to be set aside.

7. Accordingly, the following order is passed:

(a) This Civil Revision Petition is allowed by setting aside the order dated 07.02.2006 made in memo in O.S.No.112 of 2003, on the file of the Principal District Munsif, Ambur;

(b) The learned Additional District Munsif-cum-Judicial Magistrate, Ambur, is directed to take up both the suits in O.S.Nos.297 of 2004 and 112 of 2003 and try them jointly on a day-to-day basis without giving any adjournment to either parties and pass the judgment within a period of one month from the date of receipt of this order. Both the parties are directed to co-operate for early disposal of suit. The learned Additional District Munsif-cum-Judicial Magistrate Ambur, is directed to submit a report before this Court within a period of ten days from the date of judgment in both the suits.

8. In the result, the Civil Revision Petition is allowed without costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District Munsif,
Ambur.

2.The Additional District
Munsif-cum-Judicial Magistrate
Ambur

3.The Section officer
Criminal Section
High Court, Madras

+1 cc to Mr.K.Nagarajan Advocate sr 80590

ssi(co)
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