



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2017

CORAM :

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

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C.R.P. (MD) No.1101 of 2017 (PD)

and

C.M.P (MD) .No.4915 of 2017

1.C.Fancy Bai

2.C.Benciher

... Petitioners/Petitioners/
Defendants 1 and 2

Vs.

1.Chellathurai

...Respondent No.1/Respondent No.1/
Plaintiff

2.M.Rajan

3.C.Murugan

4.J.Josephin Immaculate

5.C.Robert Vincent

...Respondents 2 to 5/
R2 to R5/Defendants 3 to 6

PRAYER: The Civil Revision Petition filed under Article 227 of Constitution of India, against the order passed in an unnumbered I.A. In O.S.No.216 of 2010, dated 16.02.2017 on the file of the Subordinate Judge, Padmanabhapuram.

For Petitioners

: Mr.C.Godwin

For Respondents

: No Appearance

ORDER

The Civil Revision Petition in CRP (MD).No.1101 of 2017 has been filed, against the order passed in unnumbered I.A. In O.S.No.216 of 2010, dated 16.02.2017 on the file of the Subordinate Judge, Padmanabhapuram.

2.Heard the learned counsel for the revision petitioners. No representation for the respondents.

3.The case of the revision petitioners is that the first respondent herein filed O.S.No.216 of 2010, against them for declaring settlement deed, dated 08.09.2010 executed by the first revision petitioner is a void document and consequential relief. Another suit in O.S.No. 131 of 2010 was also filed with an identical relief in respect of settlement deed, dated 18.12.2009. Both the suits are between the same parties in respect of two different settlement deeds executed on two different dates.

<https://hcservices.ecourts.gov.in/hcservices/>

4.While so, on receipt of the summon in O.S.No.131 of 2010, the revision petitioner herein has come to know about the



compromise decree obtained behind her back and therefore the suit in O.S.No.28 of 2013 before the District Court has been filed to set aside the compromise decree passed in O.S.No.50 of 2005, on the ground of fraud.

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5. When these cases were proceeding, an application for joint trial in respect of O.S.No.131 of 2010 and O.S.No.28 of 2013 was taken out before the District Court and the same was allowed in I.A.No.47 of 2014. The present grievance of the revision petitioner is that when an application under section 10 of CPC was filed by her to stay all further proceedings in O.S.No.216 of 2010 till the disposal of the previous suits filed in O.S.No.131 of 2010, the Trial Court has dismissed the application on the ground that the defendants namely the present revision petitioners have not explained why instead of seeking transfer of O.S.No.216 of 2010 pending on the file of the Sub Court, Padmanabhapuram, to be tried along with O.S.No.131 of 2010 and 28 of 2013 pending on the file of District Court, Nagercoil, the application under section 10 of CPC to stay the further proceedings in O.S.No.216 of 2010 has been filed, after seven years and when the trial in the suit is listed for hearing.

6. This Court after hearing the learned counsel for the petitioner at length finds no error in the order passed by the Trial Court. As pointed by the Trial Court, it is always open to the petitioner, if the subject matter and issue involved is identical between the same parties and joint trial is essential for complete and adequate justice to approach the appropriate Court for transfer of OS.No.216 of 2010 on the file of the Sub Court, Padmanabhapuram to the District Court, Nagercoil to be tried along with O.S.No.131 of 2010 and O.S.No.28 of 2013.

7. The learned counsel for the revision petitioner at this juncture submits that since the suit O.S.No.216 of 2010 is posted for examination of witness, a reasonable time may be granted to approach the appropriate Court for necessary relief.

8. In the light of the above said submission, it is hereby directed to the Sub Court, Padmanabhapuram not to proceed in O.S.No.216 of 2010 for a period of 30 days. If, there is no order from the District Court, Nagercoil, regarding the transfer, then there is no impediment for the Trial Court to proceed further and forthwith, without waiting for any direction or order from this Court or District Court.



9. With the above directions, this Civil revision petition is disposed of, with liberty to the revision petitioner to approach the appropriate forum. Consequently, the connected miscellaneous petition is closed. No Costs.

Sd/-

Assistant Registrar (C.O)

/True Copy/

Sub-Assistant Registrar

To

The Subordinate Judge,
Padmanabhapuram.

+One cc to Mr.C.Godwin, Advocate, SR.No.59676

skm/dsk

RL/3C/2P/SV/SAR2/14.6.2017

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