



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.01.2017**

CORAM:

WEB COPY

**THE HONOURABLE MS.JUSTICE V.M. VELUMANI
CRP(MD) No. 96 of 2017 (PD)
and CMP(MD) No. 319 of 2017**

1.Mariyathal
2.Balamani
3.Kousalya
4.Rajamani
5.Selvi
6.Vanjikodi

Petitioners

Vs.

Arukaniayammal

Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 21.10.2016 passed in I.A.No.665A of 2015 in O.S.No.64 of 2012 on the file of the Sub Court, Palani.

For Petitioner

:Mr.M.P.Senthil

O R D E R

This Civil Revision Petition is filed against the fair and decreetal order dated 21.10.2016 passed in I.A.No.665A of 2015 in O.S.No.64 of 2012 on the file of the Sub Court, Palani.

2. The petitioners are defendants 1 to 6 in O.S.No.64 of 2012 on the file of the Sub Court, Palani. The respondent / plaintiff filed the suit for partition against the petitioners and defendants 8 to 11. The petitioners and defendants 8 to 11 filed separate written statement. The petitioners also filed I.A.No.665A of 2015 for stay of O.S.No.64 of 2012 filed by the respondents till the disposal of the suit in O.S.No.344 of 2010 filed by the petitioners, taken up for trial. According to the petitioners in I.A.No.86 of 2015, by order dated 13.03.2015 joint trial was ordered. While so, the respondent filed proof affidavit in O.S.No.64 of 2012 and the suit is posted for cross examination of respondent by the defendants counsel. The parties and the relief are one and the same in both the suits. If the suit in O.S.No.64 of 2012 proceeded separately order passed in I.A.No.86 of 2015 on 13.03.2015 will become infructuous.

3. The respondent remained ex parte before the Court below.

4. The learned Judge considering all the facts dismissed the application for stay holding that if the petitioners bring to the notice of the Court the order dated 13.03.2015 for joint trial, on the date of hearing of the suits, both the suits can be posted on the same date and joint trial could be conducted. The petitioners are not entitled for stay of suit in O.S.No.64 of 2012.



5. Against the said order of dismissal, present Civil Revision Petition has been filed.

6. The learned counsel appearing for the petitioners submitted that the learned Judge erred in dismissing the application contrary to the order passed in I.A.No.86 of 2015 dated 13.03.2015 for joint trial. If both both the suits are tried separately, it will lead to multiplicity of proceedings.

7. I have heard the learned counsel appearing for the petitioners and perused the materials on record.

8. The petitioners have sought for stay of O.S.No.64 of 2012 on the ground that joint trial of O.S.No.64 of 2012 and O.S.No.344 of 2010 was ordered in I.A.No.86 of 2015 on 13.03.2015 contrary to the said order, trial in O.S.No.64 of 2012 alone commenced.

9. From the order of the learned Judge it is seen that petitioners have not brought to the notice of Court about the order passed in I.A.No.86 of 2015 for joint trial. In view of the same, both suits are posted to different dates. The learned Judge has observed that if petitioners bring to the notice of the Court the order dated 13.03.2015 for joint trial and date of hearing of the other suit, both suits can be posted on the same day and joint trial could be conducted. The learned Judge has rightly dismissed the application for stay of O.S.No.64 of 2012. The learned Judge considered all the materials on record in proper perspective and has given valid and cogent reasons for dismissing the Interlocutory Application in I.A.No.665A of 2015 in O.S.No.64 of 2012 exercising his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

11. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/TRUE COPY/

Sub Assistant Registrar

To
The Subordinate Judge, Palani.

+1 cc to MR.M.P.Senthil ADVOCATE, SR NO:3138

trp
sva/bs/27.02.2017/2p/3c