

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:10.04.2018

CORAM

The Hon'ble Mr.Justice **P.VELMURUGAN**CRP(PD).No.1292 and 1293 of 2018 &
C.M.P.No.1292 of 2018

Kuppu Krishnan .. Petitioner/plaintiff in in both CRPs

vs.

1.R.Ranganathan
 2.The Assistant Engineer,
 TANGEDCO,
 Naripalli.
 3.The Assistant Executive Engineer,
 TANGEDCO,
 Harur.
 4.The Executive Engineer,
 TANGEDCO,
 Harur.
 5.The Supervisory Engineer,
 TANGEDCO,
 Dharmapuri.

.. Respondents in both CRPs

Prayer in CRP(PD)No.1292 of 2018: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decree dated 04.01.2018, made in I.A.No.456 of 2017 in O.S.No.65 of 2017, on the file of District Munsif Court, Harur, by allowing the present Civil Revision Petition.

Prayer in CRP(PD)No.1293 of 2018: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decree dated 04.01.2018, made in I.A.No.457 of 2017 in

O.S.No.65 of 2017, on the file of District Munsif Court, Harur, by allowing the present Civil Revision Petition.

For Petitioners
in both CRPS

... M/s.S.Paul Gnanamuthu

COMMON ORDER

These Civil Revision Petitions have been filed by the petitioner against the order passed in I.A.Nos.456 and 457 of 2017 in O.S.No.65 of 2007 on the file of the District Munsif Court, Harur, dated 04.01.2018.

2. The respondents/plaintiffs filed the suit for partition on the file of the learned Subordinate Court, Harur, pending in O.S.No.96 of 2013. When the matter was pending, the respondent filed another suit in O.S.No.65 of 2017 on the file of the District Munsif Court, Harur for permanent injunction.

3. During the pendency of both the suits, the revision petitioner has filed two applications i.e, one application was filed under Section 10 of CPC to stay the subsequent suit till disposal of the earlier instituted suit between the same parties. Yet another application in I.A.No.457 of 2017 to treat the petitioner's objections

as to the maintainability of the suit as a preliminary issue. Both the applications are tried separately. The trial Court has dismissed the applications.

4. The main contention raised by the petitioner is that admittedly there was an earlier suit between the same parties pending in O.S.No.96 of 2013 seeking partition and the subsequent one is for bare injunction. Admittedly though parties are the same, properties are same, issues involved in one suit is not the same in other suit. The decision in one suit will not bind the other suit. The suit for bare injunction will not bind them. The shares of the parties will be declared in the partition suit. In such circumstances, the revision petitioner has not made out any ground to stay of the subsequent suit under Section 10 of Code of Civil Procedures and hence the revision petition was dismissed. However, in order to avoid two conflicting judgments, the suit in O.S.No.65 of 2017 on the file of District Munsif, Harur is hereby transferred to Subordinate Court, Harur for joint trial. After transfer, the Subordinate Court, Harur shall re-number the suit in O.S.No.65 of 2017 and try along with O.S.No.96 of 2013. The District Munsif, Harur is directed to send the case records in O.S.No.65 of 2017 immediately to Subordinate Court, Harur within one weeks from the date of receipt of the order of

this Court.

P.VELMURUGAN.J,
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5. With the above direction, these Civil Revision Petitions are dismissed. No costs. Consequently connected miscellaneous petition is closed.

10.04.2018

Index :Yes/No
Internet :Yes/No
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To
The District Munsif Court,
Harur.

Note: Registry is directed to communicate the order of this Court immediately to both Courts below.

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CRP(PD).No.1292 and 1293 of 2018 &
C.M.P.No.6684 of 2018