

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.06.2018

Coram:

THE HONOURABLE **MR.JUSTICE P.VELMURUGAN**

C.R.P.(NPD)No.1459 of 2018 and

C.M.P.No.7773 of 2018

1. Ayyan
2. M.Govindasamy ... Petitioners

Vs.

1. V.Deivarasu
2. Arigoundanpatti Panchayat
rep.y by its President P.Arumugam
3. Regional Development Officer,
Veerapandi Panchayat Union
Salem District ... Respondents

Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 01.02.2018 passed in I.A.No.453 of 2017 in O.S.No.920 of 2013 on the file of the learned II Additional District Munsif's Court, Salem.

For Petitioners : Ms.HemaSampath, Senior Counsel
for R.Meenal

For Respondents: Mr.D.Shivakumaran for R1
R2 & R3 – given up

ORDER

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This civil revision petition has been filed against the order dated 01.02.2018 passed in I.A.No.453 of 2017 in O.S.No.920 of 2013 by the learned II Additional District Munsif, Salem.

2 The first respondent filed a suit in O.S.No.920 of 2013 before the II Additional District Munsif, Salem, against the respondents 2 & 3 for bare injunction. The revision petitioners are third party to the above suit. The revision petitioners filed an interlocutory application in I.A.No.453 of 2017 seeking to implead them as party to the above suit. The trial Court after hearing both sides, dismissed the application by an order dated 01.02.2018.

3 Aggrieved against the above order dated 01.02.2018 the revision petitioners are before this Court with the present civil revision petition.

4 The learned Senior Counsel appearing for the revision petitioners would submit that the suit property in O.S.No.920 of 2013 is a 12 ft. public road and the first respondent encroached the same and trying to put up construction. The revision petitioners filed a suit in O.S.No.971 of 2013 before the learned Principal District Munsif, Salem and yet another suit is also pending in O.S.No.811 of 2013 before the learned Principal District Munsif, Salem, arising out of the very same suit property. Hence the II Additional District Munsif ought to have

impleaded the revision petitioners as party to the suit in O.S.No.920 of 2013 for the effective adjudication of above suit.

5 Heard the learned Senior Counsel appearing for the petitioner and learned counsel appearing for the first respondent and perused the materials available on record.

6 Admittedly there are three suits arising out of the same suit property. Two suits in O.S.No.9811 of 2013 and O.S.No.971 of 2013 are pending before the learned Principal District Munsif, Salem, and the present suit in O.S.No.920 of 2013 is pending on the file of the learned II Additional District Munsif Court, Salem. Under these circumstances, this Court is of the view since in all the suits, the suit property is one and same and the matter is regarding encroachment, all the three suits shall be tried together in order to avoid conflict of decisions. Since it is stated that in one of the suits, trial has already been commenced, it is not proper to order for joint trial.

7 In view of the above, the learned Principal District Munsif, Salem, is directed to withdraw the suit in O.S.No.920 of 2013, pending on the file of the learned II Additional District Munsif, Salem, and

conduct simultaneous trial in all the tree suits.

8 With the above observations and directions, the civil revision petition is disposed of. Consequently connected miscellaneous petition is closed. No costs.

12.06.2018

Index: Yes/No
Internet: Yes/No
cgi

To

1. The Principal District Munsif, Salem.
2. The II Additional District Munsif,
Salem.



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P.VELMURUGAN, J.,

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