

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.2.2018

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.(PD) No.3376 of 2017 and C.M.P.No.15733 of 2017

V.Parameswaran

... Petitioner

Vs

1 Vijayalakshmi

2 Sujatha

3 M/s.Vijex Office Products

Rep. by its Proprietor Mr.Nilesh

4 M/s.Veecee Stylers

Rep. by its Proprietor Mr.Chandran

5 M/s.Universal Computers

Rep. by its Proprietor Mr.Ravi

6 M/s.Sivalayas

Rep. by its Proprietor Mr.Muthupandian

7 M/s.Arjun Amaravathy Chit Funds Pvt. Ltd.

Rep. by its Managing Director

Mr.Radhakrishnan

... Respondents

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This Civil Revision Petition is filed under Article 227 of the Constitution of India against the order, dated 13.07.2017 made in Tr.O.P.No.258 of 2016 on the file of the Principal District Judge, Coimbatore.

For Petitioner : Mr.P.M.Duraiswamy

For Respondents 1 & 2 : Mr.C.R.Prasanan

For Respondents 3 to 7 : Exparte

ORDER

According to the petitioner, petitioner has filed Tr.O.P.No.258 of 2016 before the Principal District Judge, Coimbatore seeking transfer of suit in O.S.No.1260 of 2015 filed by the petitioner from the III Additional District Munsif, Coimbatore to the file of the I Additional Sub Court, Coimbatore to be tried along with the partition suit filed by the first respondent against the petitioner and his tenants in O.S.No.825 of 2014. Since the Tr.O.P.No.258 of 2016 was dismissed by the court below, the petitioner has filed the present Civil revision petition before this Court.

2 According to the learned counsel for the petitioner, parties and the suit properties in both the suits are one and the same. In order to avoid conflicting judgment in different courts, petitioner seeks joint trial in both the suits in O.S.No.1260 of 2015 and O.S.No.825 of 2014.

3 The learned counsel for the contesting respondents strongly objected by contending that the respondent has filed applications in I.A.No.45 of 2017 in O.S.No.1260 of 2015 by raising pecuniary jurisdiction and another application in I.A.No.47 of 2017 under Order VII Rule 11 C.P.C. to reject the plaint. Therefore, if the joint trial is conducted, pecuniary jurisdiction raised by the respondent could not be considered by the I Additional Sub Court, Coimbatore. However, in the event of joint trial is considered, the learned

counsel for the contesting respondents would submit that the application filed by the respondent in I.A.No.45 and 47 of 2017 in O.S.No.1260 of 2015 be considered independently by the I Additional Sub Court, Coimbatore.

4 Heard the learned counsel for the petitioner and the learned counsel for the respondents 1 and 2 and perused the materials available on record.

5 In the light of the submission made by the counsel for the parties, by consent of the learned counsel for the parties, this Court is inclined to pass the following order:

(i) The order passed by the learned Principal District Judge, Coimbatore in Tr.O.P.No.258 of 2016 is set aside.

(ii) The suit in O.S.No.1260 of 2015 is withdrawn from the file of the III Additional District Munsif, Coimbatore and transferred to the file of the I Additional Sub Court, Coimbatore for simultaneous trial with O.S.No.825 of 2014.

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D.KRISHNAKUMAR,J.

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(iii) The III Additional District Munsif, Coimbatore is directed to forward all the case records in O.S.No.1260 of 2015 to the I Additional Sub Court, Coimbatore.

(iv) The I Additional Sub Judge, Coimbatore on receipt of the case records in O.S.No.1260 of 2015 shall conduct simultaneous trial along with O.S.No.825 of 2014. The I Additional Sub Judge, Coimbatore is also directed to consider the applications filed by the respondent in I.A.No.45 and 47 of 2017 in O.S.No.1260 of 2015 independently, before the commencement of simultaneous trial in the aforesaid suit.

6 The Civil revision petition is allowed with the above directions. No costs. Connected miscellaneous petition is closed.

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14.02.2018

Speaking/Non Speaking order

Index: Yes/No

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To

- 1 The I Additional Sub Court, Coimbatore.
- 2 The III Additional District Munsif, Coimbatore