

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.1.2018

CORAM

THE HON'BLE MR.JUSTICE **D. KRISHNAKUMAR**

**C.R.P.(PD) No.40 of 2017
and C.M.P.No.275 of 2017**

1 SMT Chits and Finance Corporation
Rep. by its Proprietor
K.Kalyanasundaram

2 K.Kalyanasundaram
3 T.R.Easwaran
4 Rajendran
5 K.Kavitha

..Petitioners

Vs.

1 Badrammal
2 R.Thimmayyan
3 Jayaprakash
4 Baluprakash
5 The Sub Registrar
Mettupalayam,
Coimbatore District.

..Respondents

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 19.09.2016 in Tr.O.P.No.38 of 2016 on the file of the Principal District Judge, Coimbatore.

For Petitioners : Mrs.P.Srividhya
For Respondent No.1 : Mr.R.Manikandan
For Respondent No.2 : Mr.J.Ramakrishnan
For Respondents 3 to 5 : No appearance

ORDER

According to the petitioner, the first respondent herein has filed a suit in O.S.No.296 of 2014 against the petitioners 1, 3 and 4 herein and the respondents 2 and 5 herein before the Sub Court, Mettupalayam for declaration declaring that the sale deed, dated 17.6.2002, registered as document No.2848/2002, executed by the 4th respondent herein as Power agent of the first respondent, in favour of the 3rd petitioner is sham and nominal and also for recovery of possession and mandatory injunction. The respondents 3 and 4 herein have filed a suit in O.S.No.484 of 2010 against the petitioners 2, 3 and 4 herein and the respondents 1 and 2 herein and also one Kannappan for partition, separate possession and claiming share in the suit property before the V Additional District Judge, Coimbatore. The revision petitioners have filed Tr.O.P.No.38 of 2016 under Section 24 of C.P.C. seeking transfer of suit in O.S.No.296 of 2014 pending on the file of the Subordinate Judge, Mettupalayam to the file of the learned V Additional District Judge, Coimbatore to be tried jointly or simultaneously along with the suit in O.S.No.484 of 2010. However, the petition was dismissed by the learned V Additional District Judge, Coimbatore. Hence, the present Civil revision petition has been filed before this Court.

2 According to the petitioners, except the respondents 3 and 4, parties as well as the property in respect of item 1 to 3 of the suit property in both the suits are one and the same. The suit in O.S.No.296 of 2014 was filed before the Sub Court, Coimbatore and subsequently, transferred to the Sub Court, Mettupalayam. Therefore, the suit in O.S.No.296 of 2014 sought to be transferred to the V Additional District Court, Coimbatore for joint trial and no prejudice would be caused to the respondents, if the suit in O.S.No.296 of 2014 is transferred to the file of the V Additional District Court, Coimbatore for joint trial. Hence, the order passed by the Court below is liable to be set aside.

3 Counsel for the respondent submitted that the respondent has no serious objection to conduct simultaneous trial in both the suits.

4 Considering the facts and circumstances of the case and in view of the submission made by the counsel for the parties and in the interest of justice, this Court is inclined to pass the following order:

(i) The order passed by the learned V Additional District Judge, Coimbatore in Tr.O.P.No.38 of 2016 is set aside.

D.KRISHNAKUMAR.J,

vaan

(ii) Suit in O.S.No.296 of 2014 is withdrawn from the file of the Subordinate Judge, Mettupalayam and transferred to the file of the learned V Additional District Judge, Coimbatore for simultaneous trial along with the suit in O.S.No.484 of 2010 now pending before the V Additional District Judge, Coimbatore.

(iii) The learned V Additional District Judge, Coimbatore is directed to conduct trial in both the suits in O.S.No.296 of 2014 and O.S.No.484 of 2010 simultaneously.

(v) The Civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

8.1.2018

Speaking/Non Speaking order

Index: Yes/No

Internet: Yes/No

vaan

To

1 The Principal District Judge, Coimbatore.

2 The Subordinate Judge, Mettupalayam

WEB COPY

**C.R.P.(PD) No.40 of 2017
and C.M.P.No.275 of 2017**



8.1.2018

WEB COPY