

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 26.03.2018

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P. (PD) Nos.145 and 146 of 2016

Sarammal @ Sarambi Ammal

... Petitioner in
both CRPs

Versus

1. Abdul Khadar
2. Dilshad Begum

... Respondents in
both CRPs

3. The Commissioner,
Salem Corporation, Fort, Salem - 1.

..... Respondent in
CRP No.145 of
2016

Prayer in CRP No.145 of 2016 : Civil Revision Petition filed under Article 227 of the Constitution of India against the Judgment and Decree passed by the Hon'ble Principal District Judge, Salem in the Transfer O.P. No.301 of 2014 filed by the Petitioner to transfer the proceedings pending in O.S. No.130 of 2005 on the file of I Additional District Munsif, Salem for joint trial along with the suit in O.S. No.379 of 2014 on the file of Principal Subordinate Judge, Salem.

Prayer in CRP No.146 of 2016 : Civil Revision Petition filed under Article 227 of the Constitution of India against the Judgment and Decree passed by the Hon'ble Principal District Judge, Salem in the Transfer O.P. No.302 of 2014 filed by the Petitioner to transfer the proceedings pending in O.S. No.1385 of 1983 on the file of I Additional District Munsif, Salem for joint trial along with the suit in O.S. No.379 of 2014 on the file of Principal Subordinate Judge, Salem.

For Petitioner :
For Respondents :

Mr.M.Mohamed Riyaz
Mr.P. Jagadeesan for R1
No appearance for R2
No appearance for R3 in
CRP No.145 of 2016

COMMON ORDER

Civil Revision Petition No.145 of 2016 arise out of the order dated 13.03.2015 passed in Transfer O.P. No.301 of 2014 on the file of the learned Principal District Judge, Salem. In the said Transfer OP No.301 of 2014, the petitioners therein prayed to permit them to withdraw the suit in O.S. No.130 of 2005 and to Transfer it to the file of the Principal Sub Judge, Salem for being tried along with O.S. No.379 of 2014.

2. Civil Revision Petition No.146 of 2016 arise out of an even order dated 13.03.2015 passed by the learned Principal District Judge, Salem in Transfer OP No.302 of 2014. This petition in Transfer OP No.302 of 2014 had been filed to withdraw the O.S. No.1385 of 1983 pending on the file of I Additional District Munsif, Salem and to transfer it to the file of the Principal Sub Judge, Salem for being tried along with O.S. No.379 of 2014.

3. Heard the learned counsel for both sides.

4. The suit in O.S. No.896 of 1984 (renumbered as O.S. No.130 of 2005) was filed for the relief of declaration to declare that the sale deed dated 02.03.1952 executed by Sikkandhar Mohideen in favour of Sarammal, the first defendant in the suit as null and void, and for other reliefs. O.S. No.238 of 1986 was filed for the relief of permanent injunction restraining the sole defendant Sarammal from interfering with the peaceful possession and enjoyment of the suit property and interfering with the plaintiffs right to collect rent in a portion of the suit property from the tenants. O.S.

No.379 of 2014 has been filed by Sarammal @ Sarambi Ammal for declaration to declare that she is the absolute owner of the suit property and for other reliefs.

5. Admittedly, the suit property involved in all the three suits are one and the same. The parties to these suits are almost identical. In such a view of the matter, a decree or judgment passed in one suit will have a barring on one and the other. Therefore, it is just and proper for the Court below to have allowed the Transfer Original Petitions, so that a common judgment and decree can be passed in all the suits, which are identical with each other. This is more so that this will avoid conflict of judgment. Therefore, this Court feels that in the best interest of the parties to the suits, the order passed by the Court below has to be set aside. Accordingly, both Civil Revision Petitions are allowed. No costs. Consequently, connected miscellaneous petition, if any is also closed.

26.03.2018

Index : Yes/No
Internet : Yes / No
Speaking/Non Speaking
vsi2

WEB COPY

To

1. The Principal District Judge, Salem
2. The Additional District Munsif - I, Salem

D.KRISHNAKUMAR, J.

vsi2



C.R.P. (PD) Nos.145 and 146 of 2016

WEB COPY

26.03.2018