



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P (PD) (MD) No.762 of 2014

and

M.P (MD) Nos.1 and 2 of 2014

A.Mohamed Farook

:Petitioner /Petitioner/
Plaintiff

vs.

Iyamputhur Muppathoor Devangar Chathiram
through its President,
Subramania Chettiar,
South Masi Street,
Madurai - 625 001.

:Respondent/Respondent/
Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decree dated 18.02.2014 passed in I.A.No.669 of 2013 in O.S.No.1111 of 2008 on the file of the Principal District Munsif Court, Madurai Town.

For Petitioner : Mr.J.Barathan
For Respondent : Mr.C.Jegannathan

ORDER

This Civil Revision Petition is filed against the order and decree, dated 18.02.2014, passed in I.A.No.669 of 2013 in O.S.No.1111 of 2008 on the file of the Principal District Munsif Court, Madurai Town.

2.The brief facts that are necessary for the disposal of this civil revision petition are as follows:

(i)The revision petitioner is the plaintiff in the suit in O.S.No.1111 of 2008 on the file of the Principal District Munsif Court, Madurai Town. The suit is filed for permanent injunction restraining the defendant and their men from interfering with the plaintiff's peaceful possession and enjoyment of the suit property, as a tenant except under due process of law. Even in the plaint, it is admitted that the revision petitioner/plaintiff is only a tenant under the defendant. The petitioner/plaintiff has also filed another suit in O.S.No.97 of 2013 before the same Court for permanent injunction restraining the defendant from demolishing the northern, western and southern walls of the suit property. The first suit filed by the plaintiff is on the basis



that the plaintiff's peaceful enjoyment is being threatened on the defendant is making attempt to dispossess the plaintiff, who is enjoying the suit property as a tenant. In the second suit filed by the revision petitioner/plaintiff, it is alleged that the defendant, with an intention to forcibly evict the revision petitioner, is trying to demolish the northern, western and southern walls of the suit property during night hours. Though the cause of action in both the suits are different, it is the apprehension of the plaintiff that the both the suits are identical and common issue arises in both the suit.

(ii) The revision petitioner, having regard to the nature of the pleadings in the suits, filed an application in I.A.No.699 of 2013 for joint trial of the suits in O.S.No.1111 of 2008 and O.S.No.97 of 2013. The said application was dismissed by the trial Court on the ground that the cause of action in both the suits are different. Aggrieved by the same, the present Civil Revision Petition has been filed.

3. It is not in dispute that the parties in both the suits are same and the subject matter is also similar. The averments in the plaint and the written statement in defence are also identical. The first suit for injunction is based on alleged threat of dispossession. The second suit for injunction restraining the respondent from demolishing the walls, is also on the similar apprehension that the defendant may do something, so as to prevent the plaintiff from enjoying the suit property. Though the cause of action, as stated in the plaints are different, the plaintiff has to establish his lawful possession as a tenant in both suits and the apprehension of the plaintiff is real.

4. The fact that the landlord has filed a suit for eviction against the tenant indicating the lawful possession of the plaintiff as a tenant, is not in dispute. Both the suits are likely to be decided, on the basis of certain issues, which are either common or identical.

5. In such circumstances, in the interest of justice and to avoid multiplicity of proceedings and also to avoid inconvenience to the parties, the lower Court ought to have allowed the application for joint trial.

6. As a result, this Civil Revision Petition is allowed and the order passed by the learned Principal District Munsif, Madurai Town, dated 18.02.2014, in I.A.No.669 of 2013 in O.S.No.1111 of 2008 is set aside and the suit filed in O.S.No.1111 of 2008 is directed to be tried along with O.S.No.97 of 2013. This Civil Revision Petition is filed in the year 2014 and is pending for more than four years. In view of the same, the learned Principal District Munsif, Madurai Town is directed to expedite the trial and dispose of the suits within a period of six months from the



date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

WEB COPY

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Principal District Munsif,
Madurai Town.
2. The Record Keeper,
V.R.Section, (2 Copies)
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.T.R.Jeyapalam, Advocate SR.No.74748

+1cc to M/S.VEERA ASSOCIATES, SR.No.74747

Cp

MK/SKN/SAR 2/03.09.2018/3P/6C

ORDER MADE IN
C.R.P. (PD) (MD) No.762 of 2014
and
M.P. (MD) Nos.1 and 2 of 2014
23.07.2018