



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD)No.452 of 2016 (PD)

and

CMP(MD)No.1945 of 2016

B.Krishnaswami ... Petitioner/Petitioner/ 1st Defendant
Vs.

1.Thulasimani
2.Samboornam
3.Srimathi @ Selvanayagi
4.Dhanalakshmi
5.Nachammal ... Respondents/Respondents/Defendant

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 18.01.2016 made in I.A No.921 of 2014 in O.S No.280 of 2014 on the file of the Additional District Munsif, Karur.

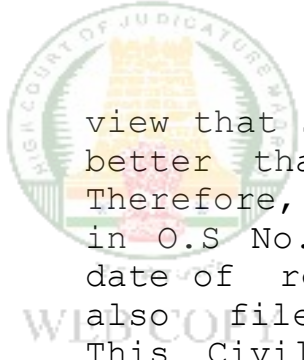
For Petitioner	: Mr.S.Gokulraj
For Respondents	: Mr.V.Balaji for R1 & R2 R4 & R5 - No appearance

ORDER

The revision petitioner herein is the first defendant in O.S No.280 of 2014 on the file of the Additional District Munsif Court, Karur. He filed I.A No.921 of 2014 for rejection of plaint. The same was dismissed by order dated 18.01.2016. Questioning the correctness of the said order, this Civil Revision Petition came to be filed.

2.The learned counsel appearing for the revision petitioner pointed out that the parents of the parties herein were locked in a litigation in respect of the same cause of action and that the same was ended in favour of the petitioner's mother on 31.03.1973 in O.S No.1400 of 1969 on the file of the District Munsif Court, Karur. The learned counsel for the revision petitioner pointed out that in the present plaint filed by the respondents herein, there is absolutely no whisper about the institution of the earlier proceedings. He contended that the present round is nothing but a re-litigation. He therefore, placing reliance on the decision reported in 2014 - 4 - L.W 314 (Karuppana Counder vs. Shanmuga Counder), wanted this court to strike off the plaint itself.

3.Though the contentions raised by the learned counsel appearing for the revision petitioner are attractive, I am of the



view that since mixed question of law and fact are involved, it is better that they are thrashed out in the main suit itself. Therefore, the court below is directed to conclude the proceedings in O.S No.280 of 2014 within a period of three months from the date of receipt of a copy of this order. The court below shall also file compliance report before the Registry of this Court. This Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The Additional District Munsif, Karur.

Copy to

The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.V.Balaji, Advocate Sr.No.80654
+1cc to Mr.S.Gokulraj, Advocate Sr.No.80557

SKM

VB/RSK/SAR1/17.09.2018/2P/5C

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