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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.10.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD).No.735 of 2016 and

C.R.P. (MD)No.73 of 2018 and

C.M.P. (MD)No.3490 of 2016 and

C.M.P. (MD)No.313 of 2018

C.R.P. (MD)No.735 of 2016

Jeyaraj Lenin

... Petitioner/Petitioner/
1st Defendant

Vs.

1. Denis
2. Linda
3. Lidiya
4. Linden
5. Lisy

... Respondents 1 to 5/
Respondents 1 to 5/
Plaintiffs

6. E.E.404, Thoothukudi Central Government
Employees Cooperative Building Society,
Through its Special Officer,
Under Tamil Nadu Housing Board,
Chidambara Nagar -1,
Thoothukudi Town, Thoothukudi Taluk,
Thoothukudi District.

7. Maria Theresa

... Respondents 6 & 7/
Respondents 6 & 7/
Defendants 2 & 3

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.996 of 2014 in O.S.No.276 of 2011 on the file of the Additional District Munsif Court, Tuticorin, dated 29.02.2016.

For Petitioner : Mr.M.P.Senthil

For R-1 to R-5 : Mr.R.J.Karthick

For R-6 : No appearance.

For R-7 : Proof not filed

C.R.P. (MD)No.73 of 2018

T.Jeyaraj Lenin

... Petitioner/Petitioner/ Plaintiff

Vs.

1. B.Justin



2. Denis
3. Linda
4. Lidiya
5. Linden
6. Lisy

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7. E.E.404, Thoothukudi Central Government
Employees Cooperative Building Society,
Through its Special Officer,
Under Tamil Nadu Housing Board,
Chidambara Nagar -1,
Thoothukudi Town, Thoothukudi Taluk,
Thoothukudi District.

8. Maria Theresita Fernando ... Respondents/
Respondents/Defendants

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 27.11.2017 passed in I.A.No.629 of 2017 in O.S.No.274 of 2011 on the file of the Additional District Munsif Court, Tuticorin.

For Petitioner	: Mr.M.P.Senthil
For R-2 to R-6	: Mr.R.J.Karthick
For R-1 & R-7	: No appearance.
For R-8	: Proof not filed

C O M M O N O R D E R

C.R.P.(MD)No.735 of 2016

O.S.No.276 of 2011 on the file of the Additional District Munsif Court, Thoothukudi, was instituted by respondents 1 to 5 herein. In the said suit, the Revision petitioner herein filed I.A.No.996 of 2014 for rejection of plaint. The Court below by order dated 29.02.2016 dismissed the same. Challenging the said order, this Civil Revision petition has been filed.

2. Heard the learned counsel on either side.

3. This Court had a look at the suit prayer. The plaintiffs seek the relief of permanent injunction as well as mandatory injunction. Obviously, a statutory Authority under Section 90 of the Tamil Nadu Co-operative Societies Act cannot grant such reliefs. Therefore, I hold that the order passed by the Court below that the suit is maintainable, does not warrant any interference. The order impugned in this Civil Revision petition is sustained.

4. The Civil Revision petition stands dismissed, accordingly.



5. It is needless to mention that the civil Court cannot adjudicate or go into the questions which are to be exclusively determined by the Authority constituted under the Tamil Nadu Co-operative Societies Act.

6.C.R.P.(MD)No.73 of 2018

O.S.No.274 of 2011 on the file of the Additional District Munsif, Tuticorin, was instituted by the Revision petitioner herein against the contesting respondents herein, seeking the relief of declaration and permanent injunction. In the said suit, I.A.No.629 of 2017 was taken out under Section 10 of C.P.C.

7. According to the Revision petitioner herein, the respondents herein have filed another suit in O.S.No.276 of 2011 and that therefore, the proceedings in O.S.No.274 of 2011 will have to be put on hold. The Revision petitioner herein stated about the pendency of C.R.P.(MD)No.735 of 2016. But the Court below by order dated 27.11.2017, dismissed the said Interlocutory application. Questioning the same, this Civil Revision petition has been filed.

8. I am of the view that the Court below rightly dismissed the said Interlocutory application and the order impugned does not warrant any interference. The Civil Revision petition stands dismissed, accordingly.

9. But the matter cannot rest there. It is seen that the suit property in O.S.No.274 of 2011 as well as O.S.No.276 of 2011 on the file of the Additional District Munsif, Tuticorin, are one and the same. The parties are also one and the same. The plaintiff is the defendant in one case and the defendants are the plaintiffs in the other case. Therefore, interests of justice require that they are jointly tried and disposed of together.

10. With these directions, the Civil Revision petition stands dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar(CS-I)

To

The Additional District Munsif,
Tuticorin.

+2cc to Mr.M.P.SENTHIL, Advocate, SR.No.89754,89759

+1cc to Mr.R.J.Karthick, Advocate, SR.No.89608

C.R.P.(MD).No.735 of 2018 AND

C.R.P.(MD)No.73 of 2018

09.10.2018