



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.08.2018

CORAM :

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P. (PD) (MD) No. 783 of 2016

and

C.M.P. (MD) No. 3902 of 2016

Ramamoorthy ... Petitioner / Petitioner / 1st Defendant

/Vs./

Micheal Doss ... Respondent / Respondent / Plaintiff

Prayer: Revision Petition - filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 24.02.2016 passed in I.A.No.481 of 2015 in O.S.No.19 of 2015 on the file of the 2nd Additional District Judge, Tiruchirappalli.

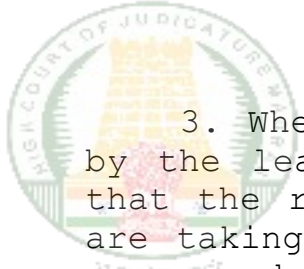
For Appellant : Mr.R.Maheswaran

For Respondent : Mr.C.Deepak

ORDER

The respondent herein has filed a suit in O.S.No.19 of 2015 on the file of the II Additional District Court, Tiruchirappalli seeking the relief of declaration and recovery of possession. In the said suit, the first defendant / revision petitioner filed I.A.No.481 of 2015 under Order 7 Rule 11 CPC for rejection of the plaint. The stand taken by the first defendant / revision petitioner was that the plaintiff's father had earlier filed a suit in O.S.No.1245 of 1987 on the file of the District Munsif Court, Tiruchirappalli, for relief of recovery of possession and that the same was decreed on 11.01.1995 and to execute the same, an Execution Petition was filed. The matter was subsequently compromised. Based on the compromise, the Execution Petition was withdrawn. The revision petitioner's contention is that there was thus, no cause of action for filing the present suit and he pleaded resjudicata. The Court below, by a very elaborate order, dismissed the said I.A.No.481 of 2015 in O.S.No.19 of 2015, by pointing out that *prima facie* suit in O.S.No.19 of 2015 is not the same as that of O.S.No.1245 of 1987. In any event, the Court below observed that the issue has to be decided only by way of the trial.

2. I am in agreement with reasons assigning by the Court below for dismissing I.A.No.481 of 2015 in O.S.No.19 of 2015 on the file of the II Additional District Court, Tiruchirappalli.



3. When the matter was taken up for hearing, it was reported by the learned counsel appearing for the respondent / plaintiff that the revision petitioner has since passed away and that they are taking steps to bring legal heirs of the revision petitioner on record in the suit proceedings. He also pointed out that the revision petitioner has died as early as on 18.05.2016, but, till date, steps have not been taken to bring the legal heirs of the revision petitioner in this Civil Revision Petition also. Therefore, on this ground also, this Civil Revision Petition is liable to be dismissed. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The II Additional District Judge, Tiruchirappalli.
2. The Record Keeper, Vernacular Section, (2 copies)
Madurai Bench of Madras High Court,
Madurai.

SM

VB/RSK/SAR2/07.09.2018/2P/4C

C.R.P. (PD) (MD) No.783 of 2016
and
C.M.P. (MD) No.3902 of 2016
11.08.2018