



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (PD) (MD) No.1607 of 2018

and

CMP(MD)No.7055 of 2018

WEB COPY

1.K.Periyakkal
2.C.Periyakkal
3.V.Saraswathi

... Petitioners/Petitioners

Vs.

1.Periyasamy Gounder
2.Karuppusamy
3.Makudeeswaran
4.Periyathambi (Veerappan)
5.P.Natchimuthu
6.Ganesan
7.Dhandapani (Periyasamy)
8.Periyasamy @ Subramani
Samiappan (died)
Perumal (died)
9.Parvathi
10.Vijaya
11.Iyyappan
12.Manjula
13.Kumarasamy
14.Sulakshana
15.S.Natchimuthu
16.P.Periyakkal
17.Kuppathal
18.Paraman
19.Dhandapani
20.Ramasamy
21.Srinivasan
22.Muthupandi

... Respondents / Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 04.02.2017 passed in TR.O.P No.48 of 2016 on the file of the learned Principal District Judge, Dindigul.

For Petitioners : Mr.D.Venkatesh

For Respondents : Mr.S.Srinivasaraghavan for
Mr.T.LeninKumar for R1 to R3

Mr.M.P.Senthil for R4 to R8, &
R10 to R12, R14 to R17

**ORDER**

O.S No.214 of 1986 (Re-numbered as O.S No.230 of 2008) on the file of the District Munsif Court, Palani was instituted by the respondents 1 to 3 herein. Preliminary decree has already been passed as early as on 17.03.1993. Thereafter, final decree application was taken out and it is still pending. Of course, there has been some progress in the final decree proceedings. An Advocate Commissioner has inspected the property and also filed his report. Subsequently, the revision petitioners filed O.S No.265 of 2014 seeking partition on the file of the Sub court, Palani. The revision petitioners herein wanted both the proceedings to be tried together. With this object in view, the revision petitioners filed TR OP No.48 of 2016 before the Principal District Judge, Dindigul seeking transfer of the final decree proceedings from the file of the District Munsif Court to the Sub Court, Palani to try along with the suit in O.S No.265 of 2014. The learned Principal District Judge, Dindigul dismissed TR OP No.48 of 2016 by order dated 04.02.2017. Questioning the same, this civil revision petition has been filed.

2.Heard the learned counsel on either side.

3.There is a broad overlapping in respect of the suit properties in both the suit proceedings. If the revision petitioners had filed their application for joint trial before passing of the preliminary decree in the said suit, then the request for joint trial would have been acceptable. But then, the earlier suit filed by the respondents 1 to 3 herein had already crossed the stage of the preliminary decree. Therefore, at this point of time, ordering joint trial is simply impossible. The learned counsel for the respondents submitted that the revision petitioners wanted to get themselves impleaded in the final decree proceedings and their application for getting themselves impleaded was dismissed. Challenging the same, they had filed a civil revision petition and the same was also dismissed by this Court in CRP(PD) (MD)Nos.337 & 338 of 2014 on 13.03.2014.

4.The learned Principal District Judge, Dindigul is justified in coming to the conclusion that the prayer made by the petitioners herein for joint trial is not possible of acceptance. The reasons assigned by the court below are sustained. There is no merit in this civil revision petition. It stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/



To

The Principal District Judge, Dindigul.

+1cc to Mr.D.Venkatesh, Advocate Sr.No.90891

+1cc to Mr.T.LeninKumar, Advocate Sr.No.90883

skm

VB/SV/SAR1/13.12.2018/3P/4C

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