



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P.PD[MD]No.1639 of 2018

and

C.M.P.[MD]No.7184 of 2018

1.Maheswari

2.Mahendiran

: Petitioners /Petitioners

Vs.

1.Rajendhiran

2.Thilagavathi

: Respondents /Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to call for the records in Fair and Decreetal order dated 09.03.2018 passed in T.R.O.P.No.11 of 2016 by the Principal District Court, Virudhunagar District at Srivilliputhur and set aside the same.

For Petitioners

: Mr.V.Perumal

For Respondents

: Mr.M.Senthilkumar

O R D E R

The defendants in O.S.No.345 of 2005 on the file of the District Munsif Court, Aruppukottai are the plaintiffs in O.S.No.87 of 2016, on the file of Subordinate Court, Aruppukottai. O.S.No.345 of 2005 was instituted by the defendants in O.S.No.87 of 2016. Thus, the parties in both the suits are one and the same. O.S.No.345 of 2005 was instituted for restraining the revision petitioners herein from dispossessing the plaintiffs therein except in the manner known to law. On the other hand, O.S.No.87 of 2016 is a comprehensive suit seeking the reliefs of declaration and recovery of possession in respect of the 'B' schedule property. The suit property is a storied building. 'A' schedule is the ground floor while 'B' schedule is the first floor. Therefore, to transfer O.S.No.345 of 2005 from the file of the District Munsif Court, Aruppukottai, to be tried along with O.S.No.87 of 2016, the revision petitioners herein filed T.R.O.P.No.11 of 2016 before the learned Principal District Judge, Virudhunagar. The said transfer petition was dismissed by order dated 09.03.2018. Questioning the same, this Civil Revision Petition has been filed.

2.Heard the learned Counsel on either side.

3.This Court is of the view that since the parties are one and the same and there is substantial overlapping of the suit properties, they will have to be necessarily heard and tried



together. But then, as pointed out by the learned Counsel for the respondents, in O.S.No.345 of 2005, trial has substantially progressed. On the other hand, trial in O.S.No.87 of 2016 is yet to commence. Therefore, in such cases, Section 24 of CPC provides a way out. Section 24(2) of CPC reads that when a suit is transferred, the Court to which it is transferred may subject to any special directions in the case of an order of transfer, either re-try it or proceed from the point at which it was transferred.

4.This Court therefore withdraws O.S.No.345 of 2005 from the file of the District Munsif Court, Aruppukottai and transfers the same to Subordinate Court, Aruppukottai to be tried along with O.S.No.87 of 2016 for simultaneous trial. The learned Subordinate Judge, Aruppukottai can proceed from the point at which O.S.No.345 of 2005 was transferred. Accordingly, the order impugned in this Civil Revision Petition is set aside. The learned Subordinate Judge, Aruppukottai shall dispose of both the suits in accordance with law within a period of six [6] months from the date of receipt of a copy of this order.

5.With the above observations, the Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The Principal District Court,
Virudhunagar.
2. The Subordinate Court,
Aruppukottai.
3. The District Munsif Court,
Aruppukottai.

+1cc to Mr.R.R.Kannan, Advocate Sr.No.81186
+1cc to Mr.V.Perumal, Advocate Sr.No.81430

MR
VB/SKN/SAR/27.09.2018/2P/6C