



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P (MD) (PD) .No.1823 of 2018

and

C.M.P (MD) .No.7978 of 2018

1.Abdul Kaboor

2.Jamal Beham

... Petitioners/Respondents/Defendants

vs.

S.Hameetha

...Respondent/Petitioner/Plaintiff

PRAYER: Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 17.07.2018 passed in I.A.No.126 of 2016 in O.S.No.9 of 2012 on the file of the Principal District Munsif-cum-Judicial Magistrate Court, Nanguneri by allowing this civil revision petition with cost.

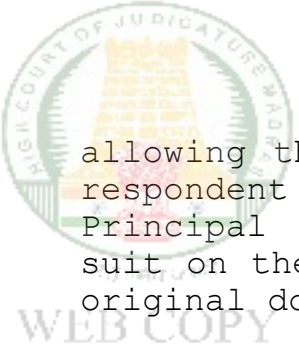
For Petitioners : Mr.V.Meenakshi Sundaram for Mr. D.Nallathambi
For Respondent : Mr.H.Arumugam

O R D E R

The defendants in O.S.No.9 of 2012 on the file of the Principal District Munsif Court, Nanguneri are the revision petitioners herein. The suit was originally filed for the relief of permanent injunction. The plaint was sought to be amended by incorporating the relief of declaration and recovery of possession. Interestingly, the prayer for permanent injunction was sought to be retained. The Court below has allowed the interlocutory application, but then as the consequence of the order impugned in this civil revision petition, the suit itself will have to be transferred to the Subordinate Court.

2.The learned counsel for the respondent realizing that instead of he can directly file a suit before the Subordinate Court on the very same cause of action, he wanted the Court to permit the plaintiff to withdraw O.S.No.9 of 2012 from the file of the Principal District Munsif, Nanguneri with liberty to institute a fresh suit on the very same cause of action before the any other Court.

3.This Court finds that the request is reasonable. Therefore, even while setting aside the order impugned in this petition and



allowing the civil revision petition, permission is granted to the respondent to withdraw O.S.No.9 of 2012 from the file of the the Principal District Munsif Court, Nanguneri, to institute a fresh suit on the same cause of action. The Court below shall return the original document to the respondent.

4.With the above directions, this Civil Revision Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(C.O)

/True Copy/

Sub Assistant Registrar(CS-IV)

rmk

To

1.The Principal District Munsif-cum-Judicial Magistrate,
Nanguneri.

2.The Record Keeper, (2 COPIES)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.D.Nalla thambi, Advocate in SR NO.88763

+1cc to Mr.H.Arumugam, Advocate in SR No.89169

C.R.P(MD) (PD) .No.1823 of 2018

and

C.M.P(MD) .No.7978 of 2018

NM/SKN/SAR 4/09.10.18/2P/6C