



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.1865 of 2018 and
C.M.P.(MD)No.8148 of 2018

G.R.Kannan ... Petitioner/1st Respondent

Vs.

1. N.Nalini
2. K.Gowri
3. R.Bhavani

... Respondents 1 to 3/
Petitioners 1 to 3

4. V.Pandian
5. S.Sasigowtham
6. S.Sivagami
7. N.Marimuthu
8. P.Punitha
9. V.Thirumalaiswamy @ Mahendran
10.D.Rahul

... Respondents 4 to 10/
Respondents 2 to 8

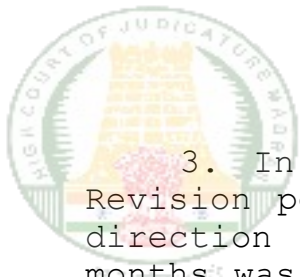
PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the impugned order dated 04.08.2018 made in Tr.O.P.No.78 of 2017 on the file of the learned Principal District Judge, Dindigul and allow the Civil Revision petition.

For Petitioner : Mr.G.Ethirajulu
For R-1 to R-3 : Mr.A.Hariharan

O R D E R

O.S.No.80 of 2012 was filed by respondents 1 to 3 herein before the District Munsif Court, Nilakottai, seeking certain injunctive reliefs. The third defendant in the said suit is the plaintiff in O.S.No.19 of 2014 on the file of the Principal District Court, Dindigul. It is a suit for specific performance. The suit schedule in O.S.No.80 of 2012 on the file of the District Munsif Court, Nilakottai, is "B" schedule in O.S.No.19 of 2014. One Thirumalaisamy and one Shanmuga Sundaram who are defendants 1 and 2 in O.S.No.80 of 2012 are the brothers of the plaintiffs in the said suit.

2. Since there is a broad overlapping of the suit schedules as well as the parties to the litigation, the plaintiffs in O.S.No.80 of 2012 filed Tr.O.P.No.78 of 2017 before the learned Principal District Judge, Dindigul. The same was allowed.



3. In the meanwhile, C.R.P.(MD)No.2271 of 2015 filed by the Revision petitioner herein and two others before this Court, and a direction for disposing O.S.No.80 of 2012 within a period of three months was issued. The learned Principal District Judge had allowed Tr.O.P.No.78 of 2017 without taking note of the direction issued in C.R.P.(MD)No.2271 of 2015.

4. The learned District Munsif, Nilakottai, was now in a strange situation. She had been directed by this Court to dispose of the suit pending before her. She had been directed by the learned Principal District Judge, to transfer the suit files. Therefore, seeking clarifications, the learned District Munsif wrote to the learned Principal District Judge. Thereupon, the learned Principal District Judge suo motu recalled the order passed by him in Tr.O.P.No.78 of 2017. The said order recalling the order made in Tr.O.P. is now under challenge in this Civil Revision petition filed by the plaintiff in O.S.No.19 of 2014 on the file of the learned Principal District Judge, Dindigul.

5. Since during the intervening period, the Revision petitioner appeared to have not co-operated with the disposal of O.S.No.80 of 2012, the learned District Munsif, Nilakottai, proceeded to decree the suit as prayed for, on 21.08.2018. The situation has been invited by the respective parties. Therefore, in order to render substantial justice, this Court deems it just to invoke its jurisdiction under Article 227 of the Constitution of India and issue the following directions:-

(i) The Judgment and Decree dated 21.08.2018 made in O.S.No.80 of 2012 on the file of the learned District Munsif, Nilakottai, stands set aside.

(ii) The order passed by the learned Principal District Judge, Dindigul, recalling his earlier order in Tr.O.P.No.78 of 2017 is also set aside.

(iii) O.S.No.80 of 2012 from the file of the learned District Munsif, Nilakottai, will be transferred to the file of the learned Principal District Judge, Dindigul and tried along with O.S.No.19 of 2014.

6. With these directions, the Civil Revision petition stands disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar(CS-III)



To

1. The Principal District Judge,
Dindigul.

2. The District Munsif,
Nilakottai.

3. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai. 2 COPIES

- 1 CC TO Mr.A.Hariharan, ADVOCATE IN SR No.87304.
- + 1 CC TO Mr.P.Arun Jayatram, ADVOCATE IN SR No. 87304.
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