

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2019

CORAM :

THE HON'BLE MS. JUSTICE P.T.ASHA

C.R.P. (PD) No.786 of 2019

and

C.M.P. No.5167 of 2019

1.Rajamani

2.C.Sundarrajan

... Revision Petitioners

Vs.

Rajendran

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal orders dated 02.02.2019 made in I.A.No.830 of 2018 in O.S.No.515 of 2018 on the file of the I Additional Subordinate Court, Salem and to order consequential stay of the said suit.

For Petitioners : Mr.N.S.Sivakumar

ORDER

The above Civil Revision Petition has been filed, challenging the order, dated 02.02.2019, made in I.A.No.830 of 2018 in O.S.No.515 of 2018 on the file of the I Additional Subordinate Court, Salem, wherein, the defendant had sought stay of proceedings in the suit in O.S.No.515 of 2018, since, an earlier suit in O.S.No.92 of 2008, is pending on the file of the I Additional Subordinate Court, Salem, filed by the 1st revision petitioner against four

defendants, namely, M.Satheesh, Padmanabhan, Palanisamy and Govindaraj, for cancellation of decree passed in O.S.No.634 of 2002 and for declaration of sale deed dated 30.03.2007 in favour of the 1st defendant, namely, M.Satheesh, pursuant to the decree in O.S.No.634 of 2002, as not maintainable and for a consequential bare injunction. The subsequent suit in O.S.No.515 of 2018 has been filed by P.Rajendran against the revision petitioners herein for bare injunction.

2.The revision petitioners would contend that, since, the earlier suit is a comprehensive suit and the decision therein would have a bearing on the subsequent suit i.e. O.S.No.515 of 2018, it ought to be stayed until the disposal of the earlier suit in O.S.No.92 of 2008. It is also seen from the records that, in the suit in O.S.No.92 of 2008, the 1st petitioner had filed a memo stating that, since, the suits are interconnected and interlinked and the documents and evidence are one and the same in both the suits, there must be a transfer and both the suits should be tried jointly. However, the learned Judge has dismissed the said memo. The learned I Additional Subordinate Judge, Salem, by an order dated 02.02.2019 was pleased to dismiss the application under Section 10 of C.P.C. stating that the parties are different and the relief in the earlier suit is one for cancellation, while the relief in the subsequent suit is one for injunction and the issues in both the suits are not directly and substantially the same.

3.Challenging the said order, the revision petitioners are before this Court.

4.As rightly held by the Court below, the issues in both the suits do not appear, directly or substantially, to be the same and the parties, particularly, the defendants in the suit in O.S.No.92 of 2008, are not the parties in the subsequent suit in O.S.No.515 of 2018 and in both the suits, it is only the 1st revision petitioner, who is the common factor. In these circumstances, I find no infirmity in the order passed by the learned I Additional Subordinate Judge, Salem, made in I.A.No.830 of 2018 in O.S.No.515 of 2018.

5.In the result, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

28.02.2019

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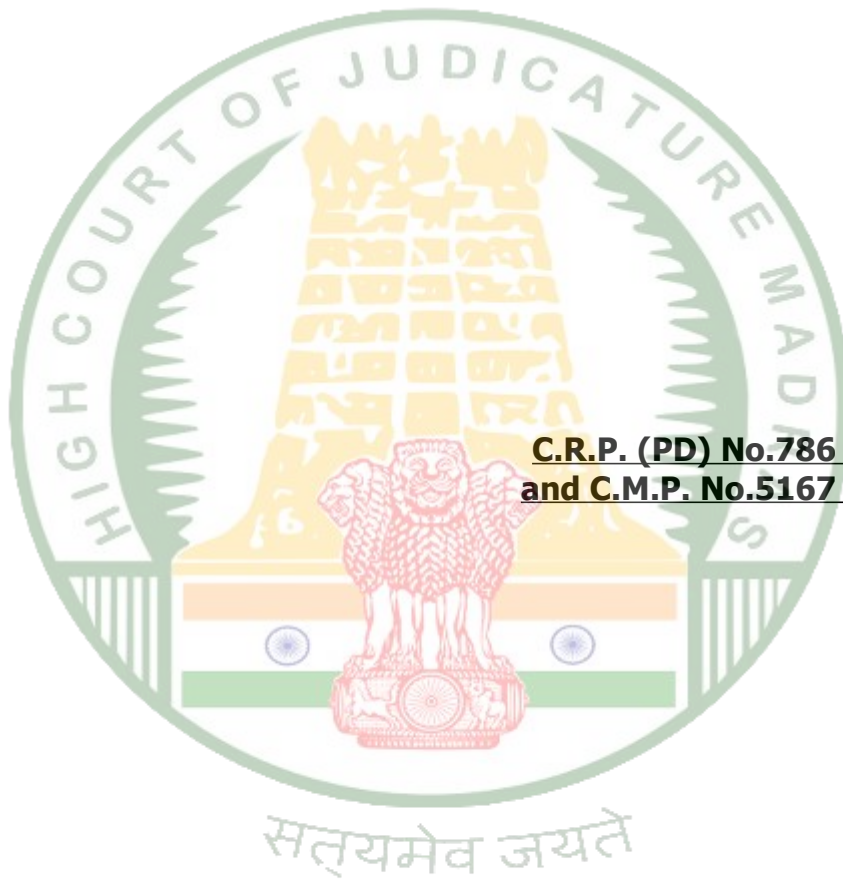
Index : Yes / No
Internet : Yes / No
Speaking order / Nonspeaking order

To

The I Additional Subordinate Judge,
Salem.

P.T.ASHA, J.

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