

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.02.2019

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(PD)No.2735 of 2013 and
M.P.No.1 of 2013

G.Chandrasekar .. Petitioner

versus

1.G.Ramesh
2.Usha Rani .. Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the order dated 12.04.2013 made in I.A.No.93 of 2013 in O.S.No.221 of 2012 on the file of the learned Principal Subordinate Judge, Salem.

For Petitioner : Mr.R.Neetheperumal
For Respondent No.1 : No Appearance
For Respondent No.2 : Not served

WEB COPY
ORDER

This Civil Revision Petition has been preferred against the order dated 12.04.2013 made in I.A.No.93 of 2013 in O.S.No.221 of 2012 on the file of the learned Principal Subordinate Judge, Salem.

2. The Interlocutory Application in I.A.No.93 of 2013 was filed by the revision petitioner, under Section 10 of the Code of Civil Procedure, seeking an order to stay the trial of the Suit in O.S.No.221 of 2012 on the file of the Principal Subordinate Judge, Salem. The said application has been filed on the ground that the present suit has been filed for partition of the property left by one Govindasamy Naidu and Shanthibai, whereas, the first respondent herein has filed a suit in O.S.No.226 of 2011 for declaration that he is the legal heir of Santha Bai and he is the younger brother of the plaintiff herein. After analysing the documents, the trial Court has dismissed the said application.

3. Aggrieved against the above said order dated 12.04.2013, the revision petitioner is before this Court with the present Civil Revision Petition.

4. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. Though the second respondent is not served, taking into consideration of the facts that both the suits are pending unnecessarily from 2011 and 2012 respectively, merely on the basis of the pendency of this

Revision, this Court is inclined to dispose of this Revision with some directions.

6. It is not in dispute that the petitioner and respondents were born to one Govindasamy Naidu but with different mothers. The suit filed in O.S.No.221 of 2012 for partition of the properties. The contention of the petitioner is that the first respondent is not the legal heir to claim right over the properties. Similarly, the suit filed in O.S.No.226 of 2011 to declare the status of the first respondent. Though the reliefs are different alternatively the issues in both the suits will be different and the plaintiff is also one of the legal heir of Shantha Bai. Therefore, in order to avoid conflicting judgments, both the suits could be tried simultaneously and dispose of the same in the same Court. Hence, this Court exercising the power under Section 24 of the Code of Civil Procedure, transfer the suit pending in O.S.No.226 of 2011 on the file of the I Additional District Munsif Court, Salem to the file of the Principal Sub Court, Salem, for simultaneous trial.

7. Accordingly, O.S.No.226 of 2011 is directed to be withdrawn from the file of the I Additional District Munsif Court, Salem and transfer the same to the file of the Principal Sub Court, Salem. The learned Principal Subordinate Judge, Salem, is directed to dispose of both the suits, after

framing necessary issues, within a period of 6 months from the date of receipt of a copy of this order. It is also made clear that the learned Principal Subordinate Judge, Salem, is directed to issue notice to the parties concerned, who are the parties before the learned I Additional District Munsif, Salem and thereafter, proceed the matter on merits and in accordance with law.

8. With the above directions, this Civil Revision Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

12.02.2019

Speaking Order/Non Speaking Order

Index : Yes / No

Internet : Yes

sri

सत्यमेव जयते

WEB COPY

To

- 1.The Principal Subordinate Judge,
Salem.
- 2.The I Additional District Munsif,
Salem.



WEB COPY

N.SATHISH KUMAR, J.,

sri



C.R.P.(PD)No.2735 of 2013
and M.P.No.1 of 2013

WEB COPY

12.02.2019