

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRP.NPD.No.4351 of 2013

R.P.Ramasamy

.. Petitioner

Vs

Tamilaga Vyabarigal Sammelanam
rep. by Mr.K.Paul Pandi,
Ramanathapuram Branch Unit,
Ramanathapuram,
Coimbatore-645 045.

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the petition and Docket Order, thereby rejecting the I.A. (Unnumbered)/2013 filed under Section 10 read with Section 151 of C.P.C. in A.S.No.1/2010 by the III Additional District Judge, Coimbatore on 25.3.2013.

For petitioner : Ms.Sriprada Prabhakar
for M/s.M.Aravind Subramaniam

For Respondent : M/s.Sadasivan

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ORDER

This Revision has been filed challenging the order of the learned III Additional District Judge, Coimbatore, in returning the application filed to stay all the further proceedings of the appeal in A.S.No.1/2010 pending on his file since the issues in the appeal in A.S.No.1/2010 are also directly or substantially related to the issues in the suits in O.S.No.4470/1994 on the file of the learned I Additional District Munsif, Coimbatore and O.S.No.504/1997 on the file of the learned Principal Subordinate Judge, Coimbatore, that too, between the same parties.

2. Heard the learned Counsel for the Revision Petitioner.

3. It is the contention of the learned Counsel for the Revision Petitioner that the issues in all the three suits are directly or substantially connected with each other and the parties in all these suits are one and the same. Therefore, unless the appeal in A.S.No.1/2010 is stayed, he will be put to great prejudice.

4. Heard the learned Counsel for the respondent.

5. It is the contention of the learned Counsel for the respondent that the appeal is filed against the decree and judgment of the court below, namely, learned II Additional Subordinate Judge, Coimbatore, passed in O.S.No.489/1994 dated 24.08.2009. Further, according to the learned Counsel for the revision petitioner, the above suit in O.S.No.489/1994 was filed on 15.4.1994. Thereafter, the suit in O.S.No.4470/1994 was filed on 11.5.1994. Subsequently, the suit in O.S.No.504/1997 was filed much later. Therefore, the very application staying the entire proceedings in A.S.No.1/2010 under Section 10 of C.P.C. cannot be entertained. It is also the contention of the learned Counsel for the petitioner that the suits in O.S.Nos.4470/1994 and 504/1997 have already been disposed of. Hence nothing survives in the present revision.

6. I perused the application filed by the revision petitioner before the trial court.

7. Admittedly, O.S.No.489/1994 was a previously instituted suit and the date of filing of the said suit is 15.04.1994 whereas O.S.Nos.4470/1994 and 504/1997 were instituted subsequently. These facts are not in dispute. The previously instituted suit, namely,

O.S.No.489/94 was disposed of by the learned II Additional Subordinate Judge, Coimbatore by decree and judgment dated 24.08.2009 against which the appeal in A.S.No.1/2010 was also filed and pending before the Additional District Court. At that stage, the present application has been filed to stay the appeal in A.S.No.1/2010 under Section 10 of C.P.C. Since Section 10 of C.P.C. can be invoked only as against the suits which are filed subsequently and the issues in such suits are directly or substantially related to the previously instituted suit which is pending whereas in this case the previously instituted suit has already been disposed of. Therefore, the appeal filed against the previously instituted suit cannot be stayed on the ground that in the subsequently instituted suits, the issues are directly or substantially related to the issues in the previously instituted suit and the parties are also one and the same. Therefore, I am of the view that the revision lacks merits and not at all maintainable and the order of the court below returning the application does not require any interference.

8. In the result, the Civil Revision Petition is dismissed. No costs.

26.02.2019

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To

The III Additional Judge, Coimbatore.



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N.SATHISH KUMAR, J.

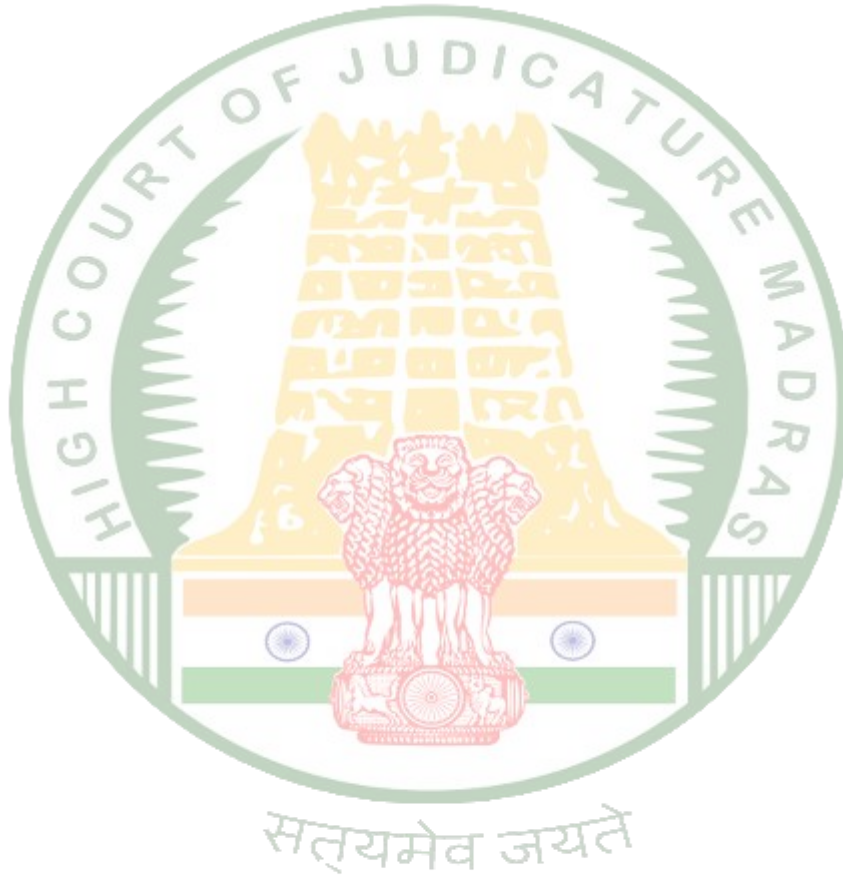
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