

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

C.R.P. (PD) No. 3286 of 2019

1. Ramesh
2. G. R. Shandhiya
3. Natarajan
4. Uma Sankar
5. Ramani

... Petitioners

-Vs-

1. Rajendran
2. Sumathiammal
3. Suguna
4. Sujatha
5. Kamalakannan
6. Harikrishnan
7. G.R. Srinivasan
8. G.R. Parijatham
9. Jeyasankar
10. Ramadoss
11. Bhaskaran
12. Kumar
13. Prabhu @ Prabhakaran
14. Maha @ Mahalakshmi

... Respondents

Prayer : Petition filed under Article 227 of the Constitution of India against the order of frequent adjournment and the last adjudication order dated 13.09.2019 which adjourned the case 04.10.2019 in O.S. No. 121 of 2009 without any progress and direct the District Munsif, Ponneri, to expedite the trial of the case.

For Petitioners : Mr. P. Umashankar
Party-in-person

For Respondents : Mr. K. Balu for R1 to R6
Mr. J. Nagarajan for R7, R8, R11 to R14
Mr. R. Krishnaswamy for R9 & R10

ORDER

This Civil Revision Petition has been filed with the prayer seeking a direction from this Court to the District Munsif, Ponneri to expedite the trial of the suit in O.S. No. 121 of 2009 within a time frame that may be fixed by this Court.

2. Heard, Mr.P.Uma Shankar, appeared party-in-person and Mr. K. Balu, learned counsel appearing for R1 to R6, Mr. J. Nagarajan, learned counsel appearing for R7, R8, R11 to R14 and Mr. R. Krishnaswamy, learned counsel appearing for R9 & R10.

3. Before the trial Court, the respondents filed a suit for partition, where the revision petitioners stood as defendant Nos. 3, 5, 7, 8 and 12. Though the suit for partition was filed in the year 2009, the same since has not been taken up for trial till date, as against which,

this revision petition has been filed by the revision petitioners / defendants.

4. On 03.10.2019, this Court directed the Court below to send a report, as to why the suit is not taken up for trial for all these years, pursuant to which, the District Munsif, Ponneri has sent a report, as to for what reasons, the suit is not taken up for trial so far.

5. On perusal of this report, this Court finds that, though the suit was filed in the year 2009, immediately, I.A. No. 95 of 2010 was filed under Order VII Rule 11 of the Civil Procedure Code and thereafter, similar Order VII Rule 11 application was filed by the 8th defendant, who is one of the petitioner herein and subsequently, it seems that, some of the defendants died, in order to bring the legal heirs, some application has been filed. Thereafter, one impleaded defendant was also died and in order to implead other legal heirs, some proceedings seems to have been filed.

6. After disposed all these applications including the application filed by the 8th defendant under Order VII Rule 11 of the Civil Procedure Code, which was dismissed as not pressed on 11.06.2019, when the trial Court had posted it for trial, it seems that, the plaintiffs have filed an Interlocutory Application in I.A. No. 1 of 2019 on 03.07.2019 under Order I Rule 10 of the Civil Procedure Code. The said IA is posted for counter of the respondents therein who are the revision petitioners herein.

7. Because of all these reasons, i.e., Interlocutory Application after application since has been filed, the Court could not proceed further to take up the matter for trial and even today the petition has been filed as stated above, hence the suit is even though ripe for trial, it could not be taken up, the learned Judge contended in his report.

8. I have perused the said report and heard the petitioners who appeared in party-in-person and also the learned counsel appearing for the respondents.

9. Taking into account, the long pendency of the suit which was filed in the year 2009, this Court feels that, since the suit is ripe for trial, whatever applications now filed can be disposed of within a short time and thereafter, the trial Court can proceed to take up the trial. Accordingly, the Civil Revision Petition is disposed of with the following directions:

" That the application i.e., I.A. No. 1 of 2019 filed under Order I Rule 10 of the Civil Procedure Code shall be disposed of by the trial Court within a period of thirty days from the date of receipt of a copy of this order and thereafter since no other application is pending, the trial Court can proceed to take up the main suit for trial and the trial Court shall take into account that, the suit is pending from 2009 for partition and preference can be given to complete the trial at the earliest, preferably within a period of six months thereafter."

10. With these observations, this Civil Revision Petition is disposed of. No costs.

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Index: Yes / No
Speaking order / Non Speaking order
vji

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R. SURESH KUMAR, J.

vji

To

The District Munsif,
Ponneri.



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