



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2019

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (MD) (PD)No.1082 of 2011

and

M.P. (MD)No.1 of 2011

K.S.Mani

:Petitioner

vs.

1.S.Chezhiyan
2.V.Solaimuthu
3.S.Vaithilingam
4.C.Thaiyamuthu
5.S.Rajagopal
6.R.Sivagamasundari
7.Meenakshi

:Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 07.12.2010 passed in Tr.O.P.No.74 of 2010 on the file of the Principal District Court, Thanjavur, and withdraw and transfer the suits in O.S.Nos.711 and 712 of 2009 on the file of the Principal District Munsif Court, Kumbakonam to the Principal Subordinate Court, Kumbakonam and to try along with O.S.No.1 of 2010 on the file of the Principal Subordinate Court, Kumbakonam.

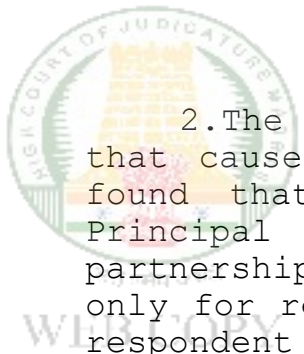
For Petitioner :Mr.H.Lakshmi Shankar

For R1 to R6 :Mr.M.R.S.Prabhu

For R7 :Mr.T.Lenin Kumar

ORDER

This Civil Revision Petition is filed, by the defendant in the suit in O.S.No.1 of 2010 on the file of the Principal Subordinate Court, Kumbakonam, as against the order dismissing the petition filed by him in Tr.O.P.No.74 of 2010 on the file of the Principal District Court, Thanjavur, to withdraw and transfer the suits in O.S.Nos.711 and 712 of 2009 on the file of the Principal District Munsif Court, Kumbakonam, to the Principal Subordinate Court, Kumbakonam and to try along with O.S.No.1 of 2010 on the file of the Principal Subordinate Court, Kumbakonam.



2.The lower Court dismissed the petition only on the ground that cause of action and nature of relief are different. It is found that the suit in O.S.No.1 of 2010, pending before the Principal Subordinate Court, Kumbakonam, is for dissolution of a partnership firm and the suit in O.S.Nos.711 and 712 of 2009 are only for recovery of money based on pronotes. Stating that the 7th respondent in the Transfer Original Petition, is not a party in O.S.No.1 of 2010 and that the parties are different, the trial Court held the joint trial of suits is not necessary. Aggrieved by the same, the present Civil Revision Petition is filed.

3.The learned Counsel for the petitioner submitted that the subject matter of the suit in O.S.No.1 of 2010 can be effectively adjudicated, if the material pleadings and the documents, the parties may rely upon, are considered. In other words, the contention of the revision petitioner is that the suits in O.S.Nos.711 and 712 of 2009 are frivolous suits and the joint trial of suits will put on end to the issue, on which the parties are at issue. The learned Counsel further stated that no prejudice is going to be caused to the other parties to the suit and more time will also be saved by transferring the proceedings before one Court.

4.From the points raised before this Court or from the arguments of the learned Counsel for the revision petitioner, this Court is unable to find any substance or material, to order the joint trial. The issues raised in the suit in O.S.No.1 of 2010 is entirely different and the other two suits are money suits filed on the basis of pronote, alleged to have been executed by the defendant. The 7th respondent, who is the plaintiff in both the money suits, is not a party in O.S.No.1 of 2010. Merely by stating that the pronote was executed in relation to some transactions in connection with the partnership business, there cannot be joint trial, as it may lead to mis-trial or mis-joinder of cause of action.

5.In the said circumstances, this Court is not inclined to interfere with the order of the lower Court. Accordingly, the Civil Revision Petition is dismissed and the order passed by the learned Principal District Judge, Kumbakonam, in Tr.O.P.No.74 of 2010, dated 07.12.2010, is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Principal District Judge, Thanjavur.

2.The Principal District Munsif, Kumbakonam.

3.The Principal Subordinate Judge, Kumbakonam.

+1 CC to M/s.T.V.SIVAKUMAR, Advocate (SR-79570[F] dated 02/08/2019)

+1 CC to M/s.V.K.VIJAYARAGAVAN, Advocate (SR-79559[F] dated 02/08/2019)

+1 CC to M/s.T.LENIN KUMAR, Advocate (SR-79756[F] dated 05/08/2019)

C.R.P. (MD) (PD)No.1082 of 2011
01.08.2019

cmr

JMN(16.08.2019) 3P : 7C