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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 11.03.2019

DELIVERED ON : 25.04.2019

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD) No.1673 of 2015

and

M.P. (MD) No.1 of 2015

1.G.Kalaiselvi

2.Gopalakrishnan

.. Petitioners/Petitioners

Vs.

1.Sethuraman

2. Rajeswari

3.Sriram

4.Minor Thulasiram

Represented by his next friend father Sethuraman

5.Saraswathi

6.Thulasiammal @ Jothi

.. Respondents/Respondents

Prayer: This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in Tr.O.P.No.56 of 2014 on the file of the learned District Judge, Tiruchirappalli dated 04.02.2015.

For Petitioners

: Mr.M.Ashokkumar

For Respondents 1 to 4

: Mr.K.Asok Kumar

For 5th Respondent

: Dismissed vide order dated
04.09.2017

For 6th Respondent

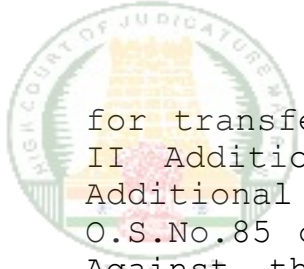
: No Appearance

ORDER

Heard Mr.M.Asokkumar, learned counsel appearing for the petitioners and Mr.K.Asok Kumar, learned counsel appearing for the respondents 1 to 4.

2.This Civil Revision Petition has been filed against the order passed in Tr.O.P.No.56 of 2014 dated 04.02.2015 on the file of the learned District Judge, Tiruchirappalli.

3.The petitioners have filed a petition in Tr.O.P.No.56 of 2014 before the learned Principal District Judge, Tiruchirappalli



for transferring the suit in O.S.No.921 of 2014 pending before the II Additional District Munsif Court, Tiruchirappalli to the II Additional District Court, Tiruchirappalli to be tried along with O.S.No.85 of 2008. That petition was dismissed by the trial Court. Against the order, the petitioners have come forward with the present petition.

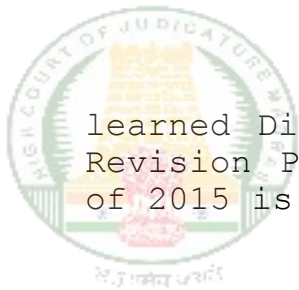
4.On the side of the petitioners, it is stated that the brothers of the husband of the first petitioner filed a suit including the property of the petitioners but they have not impleaded the petitioners as a party. The schedule properties in both the suits in O.S.Nos.85 of 2008 and 921 of 2014 are the same and joint trial will avoid the multiplicity of the case and prayed the petition to be allowed.

5.On the side of the respondents, it is stated that the suit properties in both the cases are different and the 'C' schedule property in O.S.No.85 of 2008 is in ward no.1, T.S.No.40/1 and the suit property in O.S.No.921 of 2014 is T.S.No.40/1A.

6.It is further stated that all the boundaries in both the suits are different and the first respondent have filed a suit in O.S.No.85 of 2008 for partition in the year 2008 and the first petitioner filed this suit in the year 2014 but the petitioners failed to disclose the earlier suit and just to drag on the proceedings, the petitioners have filed this petition and prayed the petition to be dismissed.

7.It is seen that the first respondent filed a suit in O.S.No.85 of 2008 against the respondents 5 and 6, the second petitioner and two others and the first petitioner is not party to the suit. The first petitioner filed a suit in O.S.No.921 of 2014 against the respondents 1 to 4. The second petitioner is not a party in O.S.No.921 of 2014 and the first petitioner is not a party in O.S.No.85 of 2008. The boundaries in both the suit properties are different but the ward number and block number are the same. The door number in O.S.No.85 of 2008 is 45/1A whereas the door number in O.S.No.921 of 2014 is 45/1. It is seen that some of the parties to this petition are parties in the suit. There is similarity in the ward number, block number and door number. No prejudice will be caused to the respondents in trying both the case together. The only objection raised by the respondents is that this petition will delay the proceedings. Except this one point no other valuable points are raised by the respondents.

8.In the above circumstances, to avoid multiplicity of the case and for clear apprehension of the facts of the case, it is decided that the suit in O.S.No.921 of 2014 pending before the learned II Additional District Munsif, Tiruchirappalli is to be transferred to the file of II Additional District Court, Tiruchirappalli to be tried along with O.S.No.85 of 2008. The order passed in Tr.O.P.No.56 of 2014 dated 04.02.2015 on the file of the



learned District Judge, Tiruchirappalli is set aside and the Civil Revision Petition is allowed. No Costs. Consequently, M.P.(MD)No.1 of 2015 is closed.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The District Judge, Tiruchirappalli.

2.The II Additional District Munsif, Tiruchirappalli.

3.The II Additional District Judge, Tiruchirappalli.

+1cc to Mr.M.ASHOK KUMAR, Advocate, SR.No.62536

C.R.P. (PD) (MD)No.1673 of 2015
25.04.2019

MRN

KK/SAR/10.05.2019/ 3P- 5C