



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

C.R.P. (PD) (MD) No.1183 of 2019

and

C.M.P (MD) No.6543 of 2019

Ponnuchamy

... Petitioner

Vs.

1.Kottaisamy
2.Balasubramani
3.Indira
4.Rajeshwari
5.Srinivasan

... Respondents

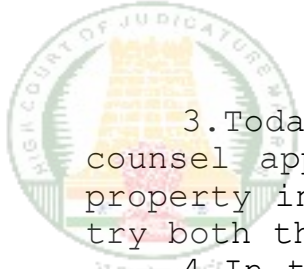
PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 26.06.2019 passed by learned Principal District and Sessions Judge, Sivagangai, in Tr.O.P.No.2 of 2017 in O.S.No.207 of 2015 on the file of Sub Court, Sivagangai.

For Petitioner : Mr.K.C.Ramalingam

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 26.06.2019 passed in Tr.O.P.No.2 of 2017 by learned Principal District and Sessions Judge, Sivagangai.

2.The petitioner herein is the petitioner in Tr.O.P.No.2 of 2017 on the file of the learned Principal District and Sessions Judge, Sivagangai. Before the trial Court, he filed a petition under Section 24 of C.P.C seeking the relief to transfer the suit in O.S.No.99 of 2015 pending on the file of the District Munsif Court, Sivagangai to the Sub Court, Sivagangai for joint trial along with O.S.No.207 of 2015. The learned Principal District and Sessions Judge, Sivagangai, by order dated 26.06.2019, had dismissed the petition filed by the petitioner by saying that the joint trial for O.S.No.99 of 2015 on the file of the District Munsif Court, Sivagangai, is not necessary.



3.Today, when the petition is came up for hearing, the learned counsel appearing for the petitioner would contend that since the property in both the cases are one and the same, it is necessary to try both the suits jointly.

4.In this regard, on going through the impugned order passed by the learned Principal District and Sessions Judge, it is seen that in the suit pertaining to O.S.No.99 of 2015, the only issue to be decided is whether the petitioner is in possession in the suit property or not. On the other hand, since the suit filed by the petitioner in O.S.No.207 of 2015 is for the relief of partition, it is necessary see as to whether the sale deed executed by the first respondent in favour of the fourth respondent, is valid or not. Accordingly, the issues to be decided in each suit, are entirely different and thereby, the cause of action is also a different one. More than that, the parties to the proceedings are also not one and the same. Thereby, if the joint trial is ordered, it will create more confusion and make a hurdle to prove the case of the either parties. Therefore, the findings arrived at by the learned Principal District and Sessions Judge is well considered one and interference is not necessary.

5.With the above observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P AND A)

// True Copy //

Sub Assistant Registrar(CS)

To

The Principal District and Sessions Judge, Sivagangai

+1 cc Mr.K.C.RAMALINGAM ,Advocate, SR.No. 77501

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