



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2019

CORAM:

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THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

C.R.P. (MD)No.1704 of 2019

and

C.M.P. (MD)No.8748 of 2019

1.Marimuthu
2.Poornima

... Petitioners/Respondents/Defendants

Vs.

1.Veeramuthu
2.Muthuraman
3.Sethu
4.Parvathi

... Respondents/Petitioners/Plaintiffs

Prayer: The petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 05.12.2017 passed in T.O.P.No.4 of 2017 by the learned Principal District Judge, Pudukkottai in O.S.No.122 of 2015 on the file of the District Munsif Cum Judicial Magistrate Court, Thirumayam, Pudukkottai District.

For Petitioner : Ms.R.Shyamala

ORDER

This Civil Revision petition has been filed against the fair and decretal order dated 05.12.2017 passed in T.O.P.No.4 of 2017 by the learned Principal District Judge, Pudukkottai in O.S.No.122 of 2015 on the file of the District Munsif Cum Judicial Magistrate Court, Thirumayam, Pudukkottai District.

2.The Tr.O.P.has been filed under Section 24 CPC to transfer the suit in O.S.No.122 of 2015 on the file of the District Munsif cum Judicial Magistrate Court, Thirumayam to the file of the Sub Court, Pudukkottai to try along with suit in O.S.No.453 of 2015.

3.After hearing both parties, the Court below has come to the conclusion that it is just and necessary to transfer the suit in O.S.No.122 of 2015 on the file of the District Munsif cum Judicial Magistrate, Thirumayam to the Sub Court, Pudukkottai to try along with the suit in O.S.No.453 of 2015 by taking into consideration of the dispute regarding the nature of cases put forth by both the parties, the dispute regarding the nature of the properties, to avoid conflicting judgment and in the interest of justice.



4.However, while passing the said order, the Court below observed that the Court can decide the issue as to whether both the suits have to be tried jointly on the basis of rival contentions raised by both parties.

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5.The learned counsel appearing for the petitioners would contend that the parties to both the suits are common and the suit properties in O.S.No.122 of 2015 is the 7th item in O.S.No.453 of 2015. Therefore, he contended that the parties as well as the subject properties are one and the same and the Court below can conduct a joint trial instead of simultaneous trial. Further, he contended that in the event of conducting joint trial, the Court below may be directed to frame whether the properties in O.S.No.453 of 2015 are self acquired properties by the revision petitioners or not.

6.Heard the learned counsel appearing for the petitioners and perused the records.

7.This Court is of the view that the Court below has passed a detailed order and allowed the Tr.O.P. to transfer the suit in O.S.No.122 of 2015 to the file of the Sub Court, Pudukkottai to try along with O.S.No.453 of 2015. Further the Court below has come to the conclusion that both the parties to the suit are common and the 7th item in the partition suit and schedule properties in O.S.No.122 of 2015 are one and the same. In such being the case, the Court below is of the view that the suits should be tried together in stead of trying the same separately by different courts in order to avoid the conflicting judgment for the same subject matter. Hence, this Court is not inclined to interfere with the order passed by the Court below. Accordingly, the Civil Revision Petition is dismissed.

8.However, while dismissing the Civil Revision Petition, this Court observes that the Court below shall frame the issue - Whether the 7th item of the properties in O.S.No.453 of 2015 is the self acquired property by Marimuthu or not. Thereafter, the Court below shall dispose of the suits within a period of 8 months. No costs. Consequently, connected C.M.P.is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar(CS)

nbj



To

1.The District Munsif cum Judicial Magistrate, Thirumayam

2.The Principal District Judge, Pudukkottai.

+1 CC to M/s.G.MATHAVAN, Advocate (SR-89467[F] dated 26/09/2019)

C.R.P. (MD) No.1704 of 2019
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JMN (25.10.2019) 3P : 4C