

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.03.2020**

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.R.P.(PD) No.642 of 2014 and
M.P.No.1 of 2014

1. Malathi
2.K.Raviganesh
3.K.Rajavikram Petitioners

vs.

1. M.Shanmugavadivu
2. M.M.Kumaresan
3. Dr.L.P.Thangavelu
4. Smt.Shanthi Thangavelu
5. S.M.Parameshwaran
6. P.Muthukumar Respondents

Civil Revision Petition filed under Article 227 of Constitution of India against the fair and final order passed in Tr.O.P.No.47 of 2013 on the file of Principal District Judge, Coimbatore, dated 08.11.2013 and to set aside the same.

For Petitioner : Mr.B.Gopalakrishnan
for Mr.Gunalan

ORDER

This Civil Revision Petition has been filed against the order passed in Tr.O.P.No.47 of 2013 on the file of Principal District Judge, Coimbatore,

dated 08.11.2013.

2. The petitioners have filed Tr.O.P.No.47 of 2013 against the respondents before the Principal District Judge, Coimbatore seeking to transfer the suit in O.S.No.1446 of 2012, pending on the file of I Additional District Munsiff, Coimbatore to the file of V Additional District Court, Coimbatore to be tried with the suit in O.S.No.770 of 2008 pending therein.

3. The trial Court, after considering the pleadings of the parties has come to the conclusion that the relief sought for in both the suits are different in respect of different properties and the cause of action in the suit sought to be transferred is entirely different, and the subject matter and the controversy in issue are also different, and therefore it cannot be said that some common question of law and facts would arise for consideration. Further, the trial Court also found that O.S.No.770 of 2008 is a comprehensive suit which has been filed in respect of entire family property and O.S.No.106 of 2011 is filed in respect of a portion of the said property, whereas the property in O.S.No.1446 of 2012 is the adjacent property and the dispute also relates to boundary only, which has no relevance to the right and title of the parties and properties involved in O.S.No.770/2008. On the aforesaid findings, the trial Court dismissed the petition in Tr.O.P.No.47 of 2013 vide order dated 08.11.2013. Further, the

trial Court was directed to dispose the O.S.No.770 of 2008, as per the directions of this Court in CRP(PD) No.3498 of 2010 dated 07.10.2010. Being aggrieved by the same, the revision petitioners are before this Court by way of this Civil Revision Petition.

4. The learned counsel appearing for the petitioner would submit that suit in O.S.No.1446 of 2012 was dismissed for default and now restored and pending on file. He further submits that without considering the fact that the subject matter and the issues involved in both the suits are one and the same and between the same parties and if they are tried separately it may lead to multiplicity of proceedings and conflicting decisions, has dismissed the petition for transfer.

5. Heard the learned counsel for the petitioner. Perused the materials available on record.

6. Considering the facts and circumstances of the case and also considering the submissions made by the learned counsel for the revision petitioner, this Court is of the view that the trial Court has rightly rejected the petition and directed the suit in O.S.No.770 of 2008 to be disposed of as per the order passed by this Court earlier. Further, as the the relief sought for in both the suits are entirely different as stated supra, there is no need

to interfere with the order passed by the trial Court. Since the suit in O.S.No.1446 of 2012 is filed by the adjacent land owners viz., the respondents 5 and 6 for bare injunction, and, as the said suit has already been dismissed for default, and now it has been restored and pending on file, this Civil Revision Petition is disposed of by directing the learned I Additional District Munsiff, Coimbatore to dispose of the suit in O.S.No.1446 of 2012, within a period of one year, from the date of receipt of a copy of this order by conducting the proceedings on a day-to-day basis without adjourning the matter beyond five working days at any point of time, without seeking any adjournment. If any party seeks any adjournment except on the ground of accident or death, a sum of Rs.2500/- should be imposed on the party who seeks adjournment on each hearing. In case of accident or death relevant certificates has to be produced in the subsequent hearing. If the Court feels that the certificate issued by the doctor is found to be bogus, then the Doctor who issued the certificate shall be examined, with regard to the genuineness of the certificate and the trial Court is also at liberty to lodge a complaint against the said doctor. No costs. Consequently, connected M.P.No.1 of 2014 is closed.

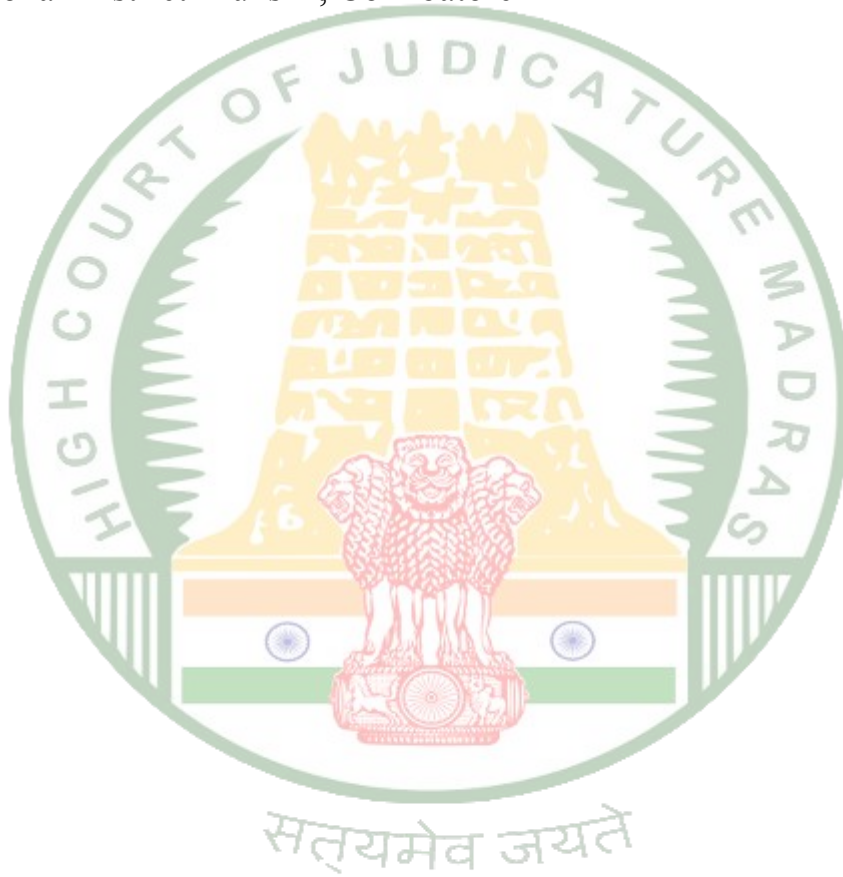
10.03.2020

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Index: Yes/No
Internet: Yes

To

1. The Principal District Judge, Coimbatore
2. I Additional District Munsiff, Coimbatore



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S.VAIDYANATHAN, J

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C.R.P.(PD) No.642 of 2014

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