

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2020

:CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Civil Revision Petition (PD) Nos.4787 and 4788 of 2017 and
C.M.P.Nos.22515 and 22516 of 2017

C.R.P.(PD) No.4787 of 2017

1. Anantha Narayanan
2. K.Manikandan ... Petitioners

Vs

1. S.Syed Azurdheen
2. N.Ravichandran
3.N.Anand Kumar ... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India to strike off the Plaint in O.S.No.1793 of 2017, on the file of Principal Subordinate Court, Coimbatore.

C.R.P.(PD) No.4788 of 2017

1. Anantha Narayanan
2. K.Manikandan ... Petitioners

Vs

1. A.Suresh
2. N.Ravichandran
3. N.Anand Kumar ... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India to strike off the Plaint in O.S.No.1961 of 2017, on the file of District Munsif Court, Coimbatore.

For Petitioner : Mr.Krishna Prasad
(in both CRP's) for Ms.Sarvabhauman Associates

For Respondents : No appearance (R1)
(in CRP.No.4787/2017) Mr.A.Gowthaman (R2 and R3)

(in CRP.No.4788/2017) No appearance

COMMON ORDER

These Civil Revision Petitions have been filed to strike off the Plaint in O.S.Nos.1793 of 2017 and 1961 of 2017, on the file of Principal Subordinate Court, Coimbatore and District Munsif Court, Coimbatore respectively.

2. The petitioners in both these revisions are same and the respondents 2 and 3 are also same. Since, the issue involved in both these revisions are one and the same they are taken up together and disposed of by a common order.

4. The learned counsel for the petitioners would submit that the first respondent in C.R.P.No.4787 of 2017 filed a suit in O.S.No.1793 of 2017 on the file of the Principal Subordinate Judge, Coimbatore against the petitioners

and two others for injunction and also the first respondent in C.R.P.No.4788 of 2017 has filed a suit in O.S.No.1961 of 2017 on the file of District Munsif Court, Coimbatore against the petitioners and two others for the very same relief. He would further submit that the first respondent in both these revisions filed the aforesaid suits at the instigation of the respondents 2 and 3. He would further submit that initially the second petitioner filed a suit in O.S.No.1117 of 2013 seeking permanent injunction against M/s.Greenland Automobiles and Company and thirteen others on the file of Principal District Munsif, Coimbatore and pending suit, the second petitioner filed two applications in I.A.Nos.834 and 835 of 2013, seeking temporary injunction in respect of A and B schedule properties respectively and the said applications were allowed by an order dated 08.04.2013 and suppressing the same, the respondents 2 and 3 instigated the first respondent in both the Revisions to file suit in O.S.Nos.1793 and 1961 of 2017 on 16.12.2017 and 15.12.2017 respectively for the very same relief. He would further submit that such an act is nothing but an abuse of process of Court. He also submitted that both the suits were filed only at the instance of the second and third respondents with an intention to evict the petitioners and both the plaintiffs in the said suits claim to be tenant with respect to very same property and both the complaints are verbatim repetition of the other, both the complaints are identical with

respect to its font,size and alignments and further schedule of property mentioned in both the complaints are identical and even the documents filed in support of the suit are also one and the same. Therefore the learned counsel for the petitioner prays to strike off the complaints in both the suits. He also placed reliance on the following decisions of the Hon'ble Supreme Court in support of his contentions.

- a) ***K.K.Modi Vs. K.N.Modi and others*** reported in **(1998) 8 SCC 573**.
- b) ***Ranipet Municipality Vs.Shamsheerkhan*** reported in **(1998) 1 CTC 66**.
- c) ***Ramaiah asari Vs. Tmt. Kurshad Begaum*** reported in **1999 (1) CTC 600**.
- d) ***Seeni(a)Sundarammal Vs.Ramaswamy Poosari*** reported in **2000 (III)CTC 74**.
- e) ***Annajothi and others Vs.S.Jainston Sigamony and Others*** reported in **2013 (3) MWN 9 (Civil) 722**.
- f) ***Madaniri Sri Rama Chandra Murthy Vs. Syed Jalal*** reported in **(2017) 13 SCC 174**.
- g) ***Dhaiben Vs.Aravindbhai Kalyanji Bhanusali*** reported in **2020 SCC online Sc 562**.

3. When these matters were taken up on 17.08.2020, this Court heard the submissions of the learned counsel for the petitioners and the matters were directed to be posted today for the arguments on the side of the respondents. Today there is no representation for the first respondent in both

the revisions and the learned counsel for the respondents 2 and 3 in C.R.P.No.4788 of 2017 is not ready to argue this case. Since the matter is pending from 2017, this Court is inclined to pass orders on merits and by considering the submissions of the learned counsel for the petitioners.

4. Heard the learned counsel for the petitioners and also perused the records.

5. Earlier, the second petitioner filed a suit in O.S.No.1117 of 2013 seeking permanent injunction against M/s.Greenland Automobiles and Company and thirteen others on the file of Principal District Munsif, Coimbatore. Pending suit, the second petitioner filed two applications in I.A.Nos.834 and 835 of 2013, seeking temporary injunction in respect of A and B schedule properties respectively and the said applications were allowed by an order dated 08.04.2013. Thereafter the first respondent in both the Revisions has filed suits in O.S.Nos.1793 and 1961 of 2017 on 16.12.2017 and 15.12.2017 respectively for the very same relief. Though, the learned counsel for the petitioners would submit that suppressing the earlier suit filed by the second petitioner, suits in O.S.Nos.1793 and 1961 of 2017 came to be filed, it has to be seen that in the earlier suit in O.S.No.1117 of 2017, filed by

the second petitioner the respondents in both these revisions are not parties. Therefore it cannot be said that the same is abuse of process of Court. Further, whether the second and the third respondents filed the suits only at the instigation of the respondents 2 and 3 are all the facts can be decided by the trial Court after recording evidence and the same cannot be decided in these revisions, under Article 227 of Constitution of India.

6. Under these circumstances, these Civil Revision Petitions are dismissed. However, the petitioners are at liberty to approach the trial Court in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.08.2020

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Index: Yes/No.

Internet: Yes

सत्यमेव जयते

To

WEB COPY

1. The Principal Subordinate Court, Coimbatore.
2. The District Munsif Court, Coimbatore.
3. The Section Officer, V.R. Section, High Court, Madras

C.R.P.(PD).Nos.4787 and 4788 of 2017

P.VELMURUGAN, J

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