

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (PD) Nos.3619 & 3620 of 2018

Martin Selvam ... Petitioner in both the petitions

Vs.

Jerome Royappan ... Respondent in both the petitions

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, praying

- (i) **CRP 3619/2018**: to set side the order dated 27.11.2017 passed in I.A.No.226 of 2017 in O.S.No.36 of 2013 pending on the file of the District Munsiff Court cum Judicial Magistrate, Nannilam and allow the I.A.No.226 of 2017 in O.S.No.36 of 2013 pending on the file of the District Munsiff Court, Nannilam.
- (ii) **CRP 3620/2018**: to set side the order dated 27.11.2017 passed in I.A.No.227 of 2017 in O.S.No.36 of 2013 pending on the file of the District Munsiff Court cum Judicial Magistrate, Nannilam and allow the I.A.No.227 of 2017 in O.S.No.36 of 2013 pending on the file of the District Munsiff Court, Nannilam.

For Petitioner : Mr.George Graham
for M/s.Devadasan and Sagar

For Respondents : Mr.M.Sivavarthanan

COMMON ORDER

This matter is taken up for hearing through Video-Conferencing.

The occasion for these Revisions has arisen due to the hyper technical and pedantic approach adopted by the learned District Munsif cum Judicial Magistrate, Nannilam. These two Revisions arise out of the two applications in IA Nos.226 of 2017 and 227 of 2017.

2. There are two suits, viz. OS No.68 of 2012 and OS No.36 of 2013.

These two suits are essentially cross suits, inasmuch as, many of the properties subject matter of the suits are one and the same. While OS No.68 of 2012 was filed for permanent injunction by the plaintiff against twelve defendants belonging to one and the same family, the eleventh defendant in OS No.68 of 2012 had filed another suit in OS No.36 of 2013 seeking a

decree for permanent injunction against the plaintiff in OS No.68 of 2012.

3. When both the suits were taken up for trial, the plaintiff in OS No.68 of 2012 has come up with two applications, referred to above, one seeking joint trial of both the suits and the other seeking stay of the second suit. The learned District Munsif cum Judicial Magistrate has dismissed both the applications concluding that the parties are different and the properties are different.

4. I am unable to approve the approach of the learned District Munsif cum Judicial Magistrate. A perusal of the schedules in both the suits show that majority of the properties are one and the same. While the first suit is filed against the twelve persons, the eleventh defendant alone has filed a written statement, which is adopted by defendants 1, 7, 8 and 9. It is stated that the other defendants are represented by the eleventh defendant as their power agent and the twelfth defendant alone is appearing separately.

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5. Both the suits are for injunction. In matters like this, the object of the Court should be to consolidate the cases so as to avoid a possibility of a

conflicting judgment. Both the suits are for bare injunction, most of the properties are one and the same. The parties are also litigating under the same title. If the suits are tried separately, there is always a possibility of there being conflicting judgments. The object of joint trial is to avoid such conflicting judgments.

6. In view of the above, I am convinced that the order of the Trial Court has to be interfered with and it is accordingly set aside. There will be an order directing joint trial of the suits in OS No.68 of 2012 and OS No.36 of 2013 pending on the file of the District Munsif cum Judicial Magistrate, Nannilam. IA No 226 of 2017 will stand allowed. In view of the order passed the CRP PD. No.3619 of 2018, CRP PD No.3620 will stand **dismissed** and IA No.227 of 2017 filed under Section 10 will stand dismissed. If any evidence is recorded earlier, the learned District Munsif cum Judicial Magistrate, is directed to proceed further from where it was stopped.

25.08.2020

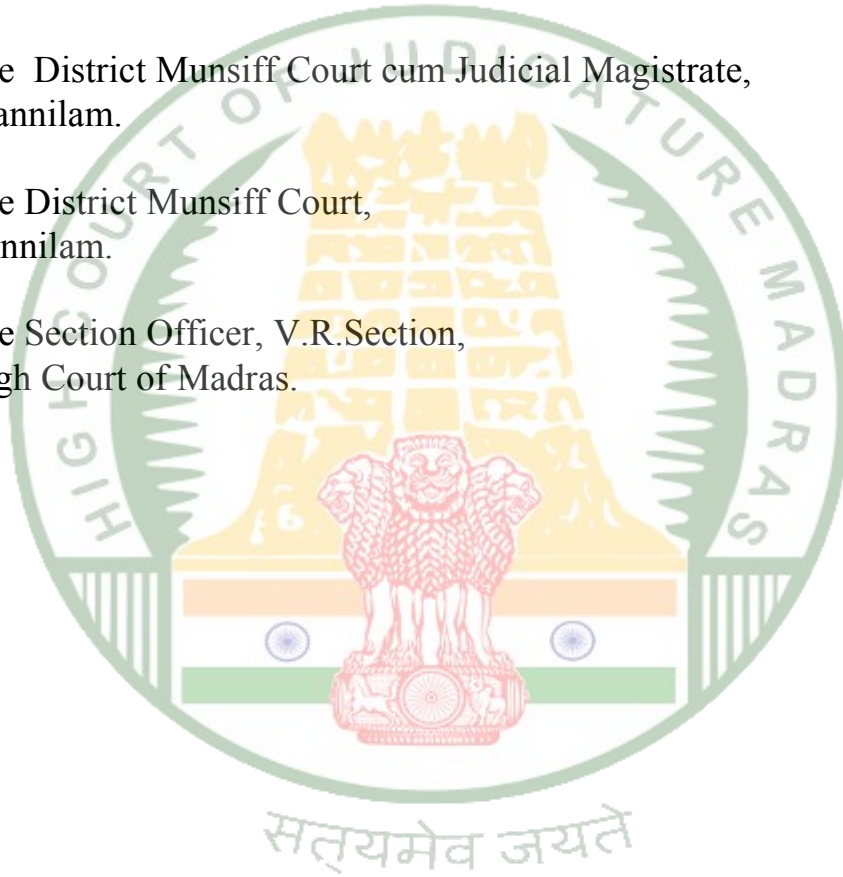
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Speaking order

To

1. The District Munsiff Court cum Judicial Magistrate,
Nannilam.
2. The District Munsiff Court,
Nannilam.
3. The Section Officer, V.R.Section,
High Court of Madras.



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R.SUBRAMANIAN, J.

jv



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