



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2020

CORAM:

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THE HONOURABLE MR. JUSTICE P. VELMURUGAN

CRP PD(MD) No. 446 of 2020

and

CMP (MD) No. 2646 of 2020

K.P.R. Singaravel

... Petitioner (2nd Petitioner/
2nd Appellant)

Vs.

1. P. Arumugam

... 1st Respondent / Respondent/
Respondent

2. K.P.R. Dhanuskodi

... 2nd Respondent / 1st Petitioner/
1st appellant

Civil Revision Petition filed under Article 227 of the Constitution of India to call for records relating to the rejection order dated 03.02.2020 made in I.A.No.un-numbered/2020 in A.S.No.52 of 2019 on the file of the Learned Sub Court, Melur and set aside the same by allowing this Revision Petition.

For Petitioner : Mr.S.Manikandan

ORDER

1.The second respondent herein filed an unnumbered application in I.A.No. -- 2020 before the Sub Court, Melur to hear the appeal in A.S.No.52 of 2019 pending on the file of the Sub Court, Melur along with O.S.No.31 of 2019 filed by him. The learned Sub Court, Melur dismissed the petition. Challenging the order of dismissal, the petitioner is before this Court.

2.The learned counsel for the petitioner would submit that the first respondent filed a suit in O.S.No.54 of 2008 for permanent injunction and the suit was decreed, against which, the petitioner herein filed an appeal in A.S.No.52 of 2019 and the same is pending before the Sub Court, Melur. In the meanwhile, the petitioner and the second respondent herein filed a suit for declaration and mandatory injunction in O.S.No.31 of 2019 and in that suit, a Commissioner was appointed to inspect the suit properties and he filed a report. The suit properties are one and



the same and the parties are also one and the same. Therefore, the petitioner sought for the relief to hear the appeal along with the suit. The Sub Court, Melur dismissed that application. Therefore, the petitioner is before this Court by filing this Civil Revision Petition.

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3. Heard the learned counsel for the petitioner.

4. Admittedly, the first respondent filed a suit for permanent injunction and that suit was decreed, against which, and an appeal was filed and the same is pending before the Sub Court, Melur. The petitioner and second respondent as plaintiffs have also filed a comprehensive suit for declaration and mandatory injunction, in which, trial yet to be commenced. If the appeal in A.S.No.52 of 2019 is decided independently, no prejudice would be caused to the petitioner, since that suit was filed for only bare injunction. Further, the petitioner has only filed a comprehensive suit for declaration and mandatory injunction and in case, he gets declaration and mandatory injunction or recovery of possession, hearing of the appeal will not cause any prejudice to that suit. Therefore, under these circumstances, there is no perversity in the order passed by the Sub Court, Melur. There is no merit in the Civil Revision Case and the same is liable to be dismissed and accordingly, it is dismissed. No costs. Consequently, CMP(MD) No.2646 of 2020 is closed.

Sd/-

Assistant Registrar(CS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

The Sub Court, Melur.

+1 CC to M/s.R.SUNDAR SRINIVASAN, Advocate (SR-11505[F] dated 13/03/2020)

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SPU(07.05.2020) 2P 3C

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