

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2021

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**C.R.P. (PD) No. 3711 of 2015
and
M.P. No. 1 of 2015**

1. Indirani

2. Vijaya

Kannammal

... Petitioners

-VS-

... Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the fair order and decretal order dated 29.04.2015 in I.A. No. 777 of 2015 in O.S. No. 28 of 2012 on the file of the District Munsif Cum Judicial Magistrate at Sriperumbudur and to allow the said application as prayed for with costs throughout.

For Petitioners : Mr. M.V.Seshachari

For Respondent : Mr. S.V.Karthikeyan

ORDER
(through video conference)

Heard Mr. M.V.Seshachari, Learned Counsel for the Petitioners and Mr. S.V.Karthikeyan, Learned Counsel for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Civil Revision Petition challenges the order dated 29.04.2015 in I.A. No. 777 of 2015 in O.S. No. 28 of 2012 passed by the District Munsif cum Judicial Magistrate Court, Sriperumbudur (hereinafter referred to as the 'Trial Court' for short) dismissing the application made by the Petitioner for joint trial of that suit along with another suit in O.S. No. 503 of 2009 in the same Court.

3. It is borne out from the materials placed on record that the Petitioners have filed the suit in O.S. No. 503 of 2009 before the Trial Court for specific performance of the agreement dated 12.11.2000 by directing the Defendants in that suit to execute a registered sale-deed in respect of the property described in the schedule to the plaint in that suit. The Respondent in this Civil Revision Petition is the Third Defendant in O.S. No. 503 of 2009 and she has filed another suit in O.S. No. 28 of 2012 before the Trial Court for declaration that she is the owner of the property described in the schedule to the plaint in that suit and for directing the Petitioners to deliver vacant possession of that property with damages and costs. The description of the property in both the suits *prima facie* appears to be identical in nature, and reference has also been made by both parties in their pleadings in O.S. No. 28 of 2012 in respect of the property involved in O.S. No. 503 of 2009.

4. The Petitioners had made an application in I.A. No. 777 of 2015 in O.S. No. 28 of 2012 for joint trial of that suit with O.S. No. 503 of 2009 before the same Court. The Trial Court was of the view that the reliefs were entirely different and separate trial is necessary and prejudice would be caused to both parties if joint trial is conducted and dismissed that application by order dated 29.04.2015, which is assailed in this Civil Revision Petition.

5. The refusal of the Trial Court to order joint trial merely because the relief sought in both the suits were entirely different is unjustified. When the property in both the suits appears to be same, it would not be possible to expect the parties to produce the same documents in proof of their claims in the respective cases. Further, recording separate oral evidence of witnesses does not serve any useful purpose. Having regard to the fact that the parties in O.S. No. 28 of 2012 are also parties in O.S. No. 503 of 2009 and both the suits appear to be relate to the same property, it would subserve the interests of justice that joint trial of both suits is conducted by recording common evidence so as to arrive at the truth regarding the rival claims made by the respective parties. Such recourse would certainly avoid multiplicity of proceedings and other legal complications. This conclusion arrived is fortified by the dictum laid down by

the Hon'ble Supreme Court of India in ***State Bank of India -vs- Ranjan Chemicals Ltd.***, [(2007) 1 SCC 97], where it has been observed as follows:-

"10. A joint trial can be ordered by the court if it appears to it that some common question of law or fact arises in both proceedings or that the right to relief claimed in them are in respect of or arise out of the same transaction or series of transactions or that for some other reason it is desirable to make an order for joint trial. Where the plaintiff in one action is the same person as the defendant in another action, if one action can be ordered to stand as a counterclaim in the consolidated action, a joint trial can be ordered. An order for joint trial is considered to be useful in that, it will save the expenses of two attendances by the counsel and witnesses and the trial Judge will be enabled to try the two actions at the same time and take common evidence in respect of both the claims...."

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11. A joint trial is ordered when a court finds that the ordering of such a trial, would avoid separate overlapping evidence being taken in the two causes put in suit and it will be more convenient to try them together in the interests of the parties and in the

interests of an effective trial of the causes. This power inheres in the court as an inherent power...."

Even if the properties in the two suits are ultimately found to be different, it would not cause prejudice to the parties and appropriate decision concerning the respective properties can be made based on the evidence adduced. In that view of the matter, it is not possible to sustain the order dated 29.04.2015 in I.A. No. 777 of 2015 in O.S. No. 28 of 2012 passed by the Trial Court, which is set aside and there shall be an order directing joint trial of O.S. No. 28 of 2012 and O.S. No. 503 of 2009 before the District Munsif cum Judicial Magistrate Court, Sriperumbudur by recording common evidence of witnesses and marking of documents by the parties. In order to expedite disposal, it shall be ensure that there is atleast one effective hearing every week showing progress of the case. The Trial Court shall sent a report of compliance to the Registrar (Judicial) of this Court.

The Civil Revision Petition is allowed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

Note: Issue order copy by 24.03.2021.

P.D. AUDIKESAVALU, J.

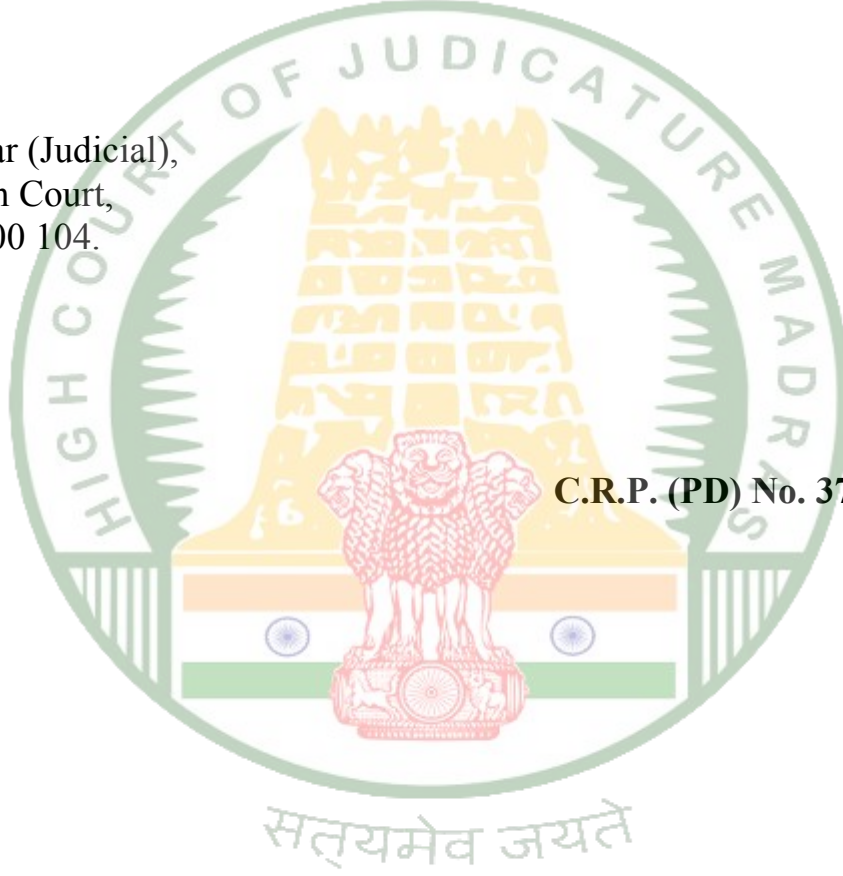
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To

The District Munsif cum Judicial Magistrate Court,
Sriperumbudur.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.



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