

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(P.D).No.4757 of 2015
and M.P.No.1 of 2015

S.P.Thyagarajan ...Petitioner

Vs

V.L.Paramasivam ...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 20.08.2015 in Tr.O.P.No.121 of 2014 on the file of the Principal District Court, Vridachalam.

For Petitioner : Mr.T.Sezhian

For Respondent : Mr.N.Suresh

ORDER

This Civil Revision Petition is arising out of the fair and decretal order dated 20.08.2015 in Tr.O.P.No.121 of 2014 on the file of the Principal District Court, Vridachalam, thereby allowing the petition filed by the respondent herein for transfer the suit in O.S.No.138 of 2012 from the file

of the District Munsif, Vridhachalam to the file of the Sub Judge, Vridhachalam, to be tried jointly along with O.S.Nos.105 of 2012 and 135 of 2012.

2.The learned counsel for the petitioner would submit that the petitioner is the tenant under the respondent herein. There was money transaction between them and as such the petitioner filed a suit for recovery of money as against the respondent herein in O.S.No.105 of 2012 and O.S.No.135 of 2012 on the file of the Sub Court, Virudhachalam.

3.While pending the said suits, the respondent has attempted to evict the petitioner without following any procedure and as such the petitioner was constrained to file the suit for injunction as against the respondent, except due process of law, on the file of the Sub Judge, Virudhachalam. At that juncture, the respondent filed a petition for transfer of suit in O.S.No.138 of 2012 to the file of the Sub Judge, Virudhachalam for joint trial. He further submitted that both the suits in O.S.Nos.105 of 2012 and 138 of 2012 are completely different in cause of action, that too for recovery of money. He would further submit that both the suits are no way connected with each other. In fact at the time of ordering the petition,

the suit in O.S.No.105 of 2012 was already disposed and no suit is pending.

4.Heard Mr.T.Sezhian, learned counsel appearing for the petitioner; Mr.N.Suresh, learned counsel appearing for the respondent and also perused the materials.

5.On perusal of records, it reveals that the petitioner is the tenant under the respondent herein. The property was owned by the respondent, is required for his personal occupation and to carry out repair work in the premises. In spite of repeated demands made by the respondent, the petitioner did not vacate the premises and as such he was constrained to file a petition for eviction. While pending the same, the petitioner filed a suit for recovery of money in O.S.No.105 of 2012 for a sum of Rs.1,72,000/-. He also filed another suit in O.S.No.135 of 2012 for recovery of money. While both the suits are pending, the petitioner herein has also filed another suit in O.S.No.138 of 2012 before the learned District Munsif, Virudhachalam, for injunction except due process of law as against the respondent herein. Though one of the suit filed by the petitioner in O.S.No.105 of 2012 was already disposed, even then the learned Sub Judge, Virudhachalam, can try the suit together with the suit in O.S.No.135 of

2012. Since the parties are same and both the suits are pending on the file of the Sub Court and the District Munsif Court, Virudhachalam, the Court below has rightly transferred the suit pending in O.S.No.138 of 2012 from the file of the learned District Munsif, Virudhachalam, to the file of the Sub Court, Virudhachalam, to try jointly along with O.S.No.135 of 2012. Therefore this Court finds no irregularity or infirmity in the order of the trial Court made in Tr.O.P.No.121 of 2014 on the file of the Principal District Court, Virudhachalam, dated 20.08.2015.

6. Accordingly, the Civil Revision Petition is dismissed. However, the learned Sub Judge, Virudhachalam, is directed to try both the O.S.Nos.135 of 2012 and 138 of 2012 simultaneously and complete the trial within a period of six months from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

सत्यमेव जयते

WEB COPY

11.01.2021

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
Jer

To

4/6

- 1.The Sub Judge, Vridhachalam.
- 2.The District Munsif, Vridhachalam.

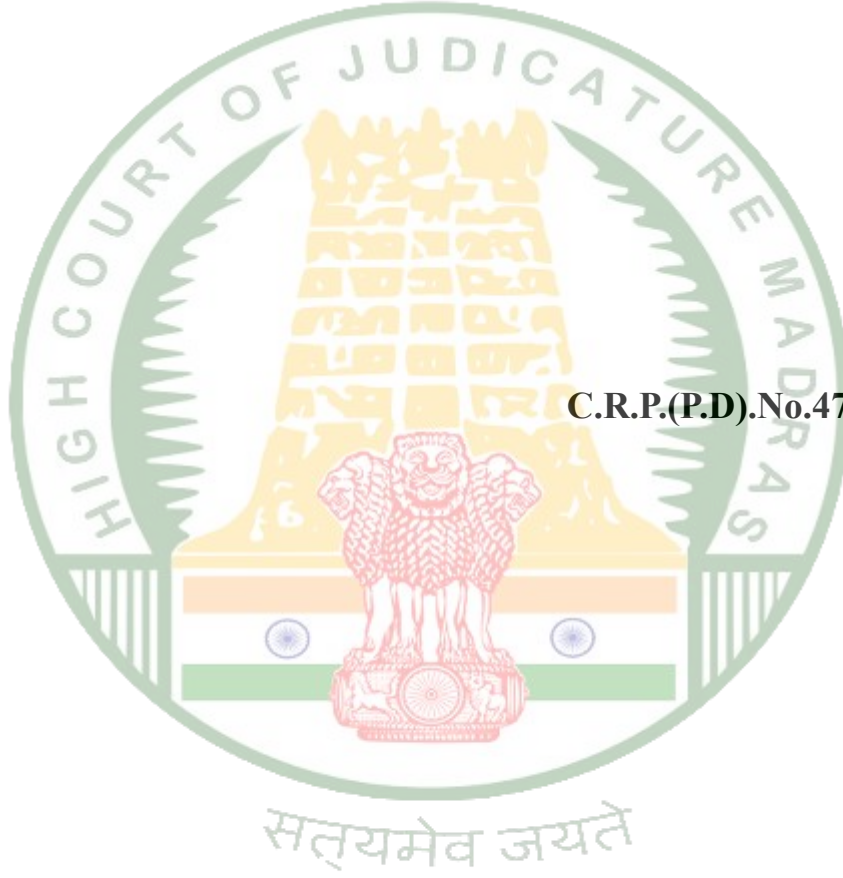


WEB COPY

C.R.P.(P.D).No.4757 of 2015

G.K.ILANTHIRAIYAN.J,

Jer



C.R.P.(P.D).No.4757 of 2015

WEB COPY

11.01.2021