

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP (PD) No.2655 of 2017

R.Kothandaraman

..Petitioner

Vs.

V.Ramu

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 13.02.2017 in I.A.No.2034 of 2015 in O.S.No.6 of 2010 on the file of the District Munsif, Thiruvallur.

For Petitioners : Mr.K.Sathish Kumar
For Respondents : Mr.R.Nalliyappan

ORDER

This Civil Revision Petition is directed against the fair and decreetal order dated 13.02.2017 in I.A.No.2034 of 2015 in O.S.No.6 of 2010 on the file of the District Munsif, Thiruvallur, thereby dismissing the petition seeking permission to withdraw the suit with liberty to file fresh suit on the same cause of action.

2. The petitioner is the plaintiff. He filed a suit for declaration and injunction as against the respondent in respect of the suit property. Pending suit, they also filed an impleading petition and amendment petition in I.A.No.474 of 2011 and 1091 of 2011. In which, the amendment petition was allowed on 10.09.2012 and the impleading petition was dismissed for default on 26.03.2015. Thereafter, they also filed a petition in I.A.No.19 of 2010 for interim injunction and the same was also dismissed by the Court below on 03.12.2013. At that juncture, after 5 years of the date of the suit, he filed a petition under Order 23 Rule 1 and 3 seeking permission to withdraw the suit with liberty to file a fresh suit with the same cause of action. When the petitioner filed the suit they went to file a another suit for same cause of action.

3. A perusal of the plaint reveals that the petitioner filed a suit for declaration and permanent injunction in respect of the suit property. Therefore, they are not entitled to withdraw the suit with liberty to file a fresh suit on the same cause of action. Therefore, this Court finds no illegality or infirmity in the order passed by the Court below. Hence, the Civil Revision Petition is dismissed. No costs.

4. However, the learned counsel for the respondent submitted that after dismissal of the same petition, the petitioner also filed petitions for impleading and amendment and both the petitions are pending.

5. Considering the above submission, this Court directs the Trial Court to dispose of the suit within a period of six months from the date of receipt of a copy of this order.

19.03.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

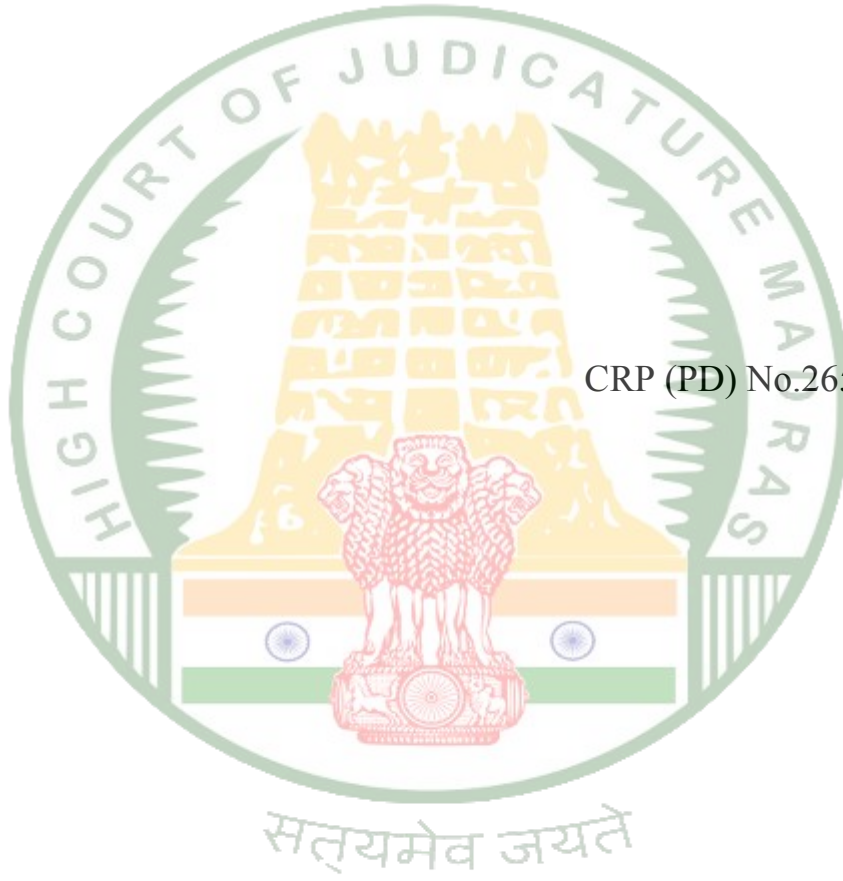
The District Munsif,
Thiruvallur.

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G.K.ILANTHIRAIYAN,J.

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