

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

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

CRP.PD.No.3412 of 2018 and
CMP.No.19204 of 2018

V.Sridharan

..Petitioner

Vs.

S.Somasunder

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order passed in IA.No.1001 of 2017 in OS.No.239 of 2009 pending on the file of Principal District Munsif at Alandur dated 12.03.2018.

For Petitioner : Mr.Balaji
for Mr.B.Vijay

For Respondent : Mr.T.N.Sugesh

ORDER

सत्यमेव जयते

This Civil Revision Petition is filed against the order passed in IA.No.1001 of 2017 in OS.No.239 of 2009 pending on the file of Principal District Munsif at Alandur dated 12.03.2018, thereby dismissing the petition for joint trial.

2. The petitioner is the defendant in the suit filed by the respondent for permanent injunction and also for mandatory injunction in respect of the suit property. While pending the said suit, the petitioner also filed suit in OS.No.23 of 2016 as against the respondent for permanent injunction in respect of the suit property. Both the suit properties are described as follows:

OS.No.239 of 2009

"All the piece and parcel of land, site and property bearing Plot Nos.69 and 70, "Shanthi Nikethan" Approved Lay-out LPDM/DDTP No.34/74, measuring in total extent 4800 sq.ft, situate at No.148, Okkiam Thoraipakkam Village, Tambaram Taluk, Kancheepuram District comprised in Survey No.406/3A/1A and No.406/3A/1B, (Survey No.406/1B/1A3 as per Patta No.1191), the said land being bounded on the

North by : Plot Nos.57 and 58

South by : 30 feet wide road

East by : Plot No.68

West by : Plot No.71

Land measuring in extent:

North to South on both sides : 60 feet

East to West on both sides : 80 feet

And measuring in total extent 4800 sq.ft, together with the house and building thereon and falling within the Sub-Registration District of Neelakarai and Registration

district of Chennai-South"

OS.No.23 of 2016

"All the piece and property bearing Plot No.71 in "Shanthi Nikethan" Approved Lay-out LPDM/DDTP No.34/74, comprised in Survey No.406/3A1A and 406/3A/1B, Patta No.1192) as per Patta Survey No.406/3A1B/1A4, measuring to an extent of 2400 sq.ft, situated at Shanthi Nikethan Layout in Okkiyam Thoraipakkam Village, Formerly Tambaram Taluk, Presently Sholinganallur Taluk, Kancheepuram District, bounded on the

North by : Plot No.56

South by : 35 feet road

East by : Plot No.70 and

West by : Plot No.72

North to South on the Easter side 60 feet

North to South on the Western side 60 feet

East to West on the Northern side 40 feet

East to West on the Southern side 40 feet"

3. According to the respondent, he purchased the plot Nos.69 and 70 admeasuring 4800 sq.ft situated at Okkiyam Thoraipakkam Village, Tambaram Taluk, Kancheepuram District. According to the respondent, some portion of the land was encroached by the petitioner and as such he filed suit for permanent injunction and also mandatory injunction. The petitioner purchased Plot No.71 in the same layout

which was purchased by the respondent admeasuring 2400 sq.ft. situated at Shanthi Nikethan layout, Okkiyam Thoraipakkam Village. According to the petitioner, the respondent disturbed peaceful possession and enjoyment of the house plot comprised in No.71 and as such the petitioner filed suit for permanent injunction.

4. Both the suits are pending before the same court and both the plaintiff and the defendant are same in both the suits. While being so, the petitioner filed petition seeking joint trial in both the suits and the same was dismissed by the court below for the reason that the issues involved in both the suits are one and the same and the claim made by both the parties among the same parties are not correct and dismissed.

5. On perusal of both the complaints and also averments in both the complaints revealed that the plaintiff and the defendant are one and the same and both have purchased different plots and the dispute is in respect of boundaries as well as some portion of the property. Therefore, though issues involved in both the suits are different, the parties are same and pending before the same court. Therefore, to avoid conflict verdict and for proper and effective adjudication and also to save time, joint trial can be ordered.

6. In view of the above, this civil revision petition is allowed and the order passed in IA.No.1001 of 2017 in OS.No.239 of 2009 pending on the file of Principal District Munsif at Alandur dated 12.03.2018 is set aside. The court below is directed to try both the suits in OS.No.239 of 2009 and OS.No.23 of 2016 jointly and dispose of the same within a period of six months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No order as to costs.

22.06.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
lok



WEB COPY

G.K.ILANTHIRAIYAN,J.

lok

To

The Principal District Munsif
at Alandur



CRP.PD.No.3412 of 2018

WEB COPY

22.06.2021