



CRP.(PD).No.610/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

CRP(PD).No.610 of 2022 &
C.M.P.No.3166 of 2022

1.V.Jayachandran

2.V.Krishnan

3.V.Radhakrishnan

...Petitioners/Defendants

Vs

A.Suryanarayan

... Respondent/Plaintiff

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Order and decretal order dated 27-10-2021 made in I.A.No.01 of 2020 in O.S.No. 311 of 2019 passed by III Additional District and Sessions Judge, Tiruvallur at Poonamallee.

For Petitioners : Mr.R.Asokan

ORDER

The defendant in the suit has come before this Court in revision challenging an order in I.A.No.01 of 2020, which he has taken out for rejecting the plaint on the ground that the claim is barred both by limitation and also hit by Order II Rule 2 of CPC.



2.The respondent herein had earlier laid a suit in O.S.No. 217 of 2015 on the file of III Additional District Court, Ponnammallee for declaration of title and for recovery of possession of the property. Subsequently, he has filed O.S.No.311 of 2019 for damages/mesne profits from the date of the earlier suit in O.S.No.217 of 2015.

3.Heard the learned counsel for the revision petitioner. The learned counsel submitted that, part of the claim is terribly barred by limitation which the trial Court has ignored. Secondly, he contented that the obligation to pay mesne profits arises only in the eventuality of the respondent establishing his title.

4.There may be merit in the submission of the learned counsel for the revision petitioner, yet it is not a big deal for rejecting the plaint. The contention of the revision petitioner definitely deserves consideration, but the stage is post trial. However, in the eventuality of the plaintiff establishing the title and also his entitlement to have decree for recovery of possession in O.S.No.217 of 2015, if the damages/ mesne profits which the defendant may have to pay is barred by limitation to any extent, then the plea can always be taken up during in trial.



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5. Given the nature of two litigations in O.S.No.217 of 2015 and the present suit in O.S.No.311 of 2019, it is only appropriate to be tried jointly. Since, both the suit are pending before the same Court, it does not require any order for transfer of one suit to the other.

6. With the above direction, this Civil Revision Petition stands disposed of accordingly. No costs. Consequently, connected civil miscellaneous petition C.M.P.No.3166 of 2022 is closed.

07.03.2022

Index : Yes/No
Speaking Order/Non Speaking Order
msv/dk

To
The III Additional District and Sessions Judge,
Ponnamallee
Tiruvallur.



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N.SESHASAYEE, J.,

msv/dk

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