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CRP.(PD)No.2094 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. [PD] No.2094 of 2015

and M.P.Nos.1 & 2 of 2015

D.Govindarajan

... Petitioner

.vs.

- 1.S.Santhamani
- 2.D.Velumani
- 3.E.Sorubakumari
- 4.D.Jagadeesan
- 5.D.Venitapathy
- 6.R.Jayalakshmi
- 7.Sangeetha Ashwin
- 8.Kandhasamy
- 9.The Executive Officer,
Kalapatty Town Panchayat,
Kalapatty, Coimbatore-48.
10. The Commissioner,
The Coimbatore City Municipal Corporation,
Coimbatore Taluk, Coimbatore.
11. Triambhava House Owners' Association,
Rep.by its President N.Rajagopalan,
Kalapatty Main Road, Chitra,
Coimbatore.

... Respondents



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Prayer: This Civil Revision Petition have been filed under Article 227 of Constitution of India, to set aside the Order dated 08.04.2015 passed in Transfer Original Petition No.33 of 2015 on the file of the Principal District Judge, Coimbatore.

For petitioner : Mr.Doraisamy
Senior Counsel

For R1, R5 to R7 & R10 : No Appearance

For R2 and R3 : Mr.Krishna Prasad for
M/s.Sarvabhanuman
M/s.B.Jawahar

ORDER

The present Civil Revision Petition has been filed to set aside the Order dated 08.04.2015 made in Transfer Original Petition No.33 of 2015 on the file of the Principal District Judge, Coimbatore.

2. The respondents 1 to 3 are the plaintiffs in the suit. The plaintiffs have filed a suit in O.S.No.251 of 2011 on the file of Sub Court, Coimbatore



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for partition and for permanent injunction. Subsequently, the respondents 2 and 3 have filed the suit in O.S.No.148 of 2014 on the file of I Additional District Munsif Court, Coimbatore for permanent injunction. They had also filed an application in Transfer Original Petition No.33 of 2015 seeking transfer of the suit in O.S.No.148 of 2014 pending on the file of I Additional District Munsif Court, Coimbatore to the file of the I Additional Subordinate Court, Coimbatore to be tried along with the suit in O.S.No.251 of 2011 and the petition was disposed on 08.04.2015, which reads as under:

“9.2. The learned counsel for the 11th respondent however, submitted that, the petitioner having filed a comprehensive suit (O.S.No.251/2011) for partition before the Sub Court, instead of filing an interlocutory application for interim injunction before that Court, has artificially invented a cause of action before the District Munsif Court in O.S.No.148/2014 and has obtained an exparte interim order of injunction in I.A.No.226/2014, and when the respondent had moved the said Court for vacating the order of injunction, the petitioner has adopted a dubious ploy of filing the present petition. This court finds merit in the said submission.

10. In the result given the nature of submission by the learned counsel for the 11th respondent, this Court finds that justice would be done in the cause only if the parties are afforded a level playing field even for considering the merit in seeking transfer of O.S.No.148/2014 from the file of I Additional District Munsif to the I Additional Sub Court. Therefore, this



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Court directs that the learned I Additional District Munsif to dispose of the injunction application (I.A.No.226/2014 within two weeks from now. The petitioner is granted liberty to move for fresh transfer petition after the disposal of the injunction application by the I Additional District Munsif Court Coimbatore. This transfer petition is disposed of accordingly”.

Against which, the petitioner has filed the present civil revision petition before this Court.

3. The learned counsel for the petitioner would submit that in two suits, the suit properties are one and the same and the main contesting parties in both the suits are also the same and therefore there is no impediment to transfer the suit in O.S.No.148 of 2014 pending on the file of the I Additional District Munsif Court, Coimbatore to be jointly tried along with the suit in O.S.No.251 of 2011 to the file of the I Additional Subordinate Court, Coimbatore and both the cases are to be tried by the same Court and therefore, this civil revision petition has to be allowed.

4. Considering the fact that in two suits, the suit properties and parties are one and the same, the suit in O.S.No.148 of 2014 from the I



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Additional District Munsif Court, Coimbatore is transferred to I Additional Sub Court, Coimbatore to be tried along with the suit in O.S.No.251 of 2011. The learned I Additional Subordinate Judge, Coimbatore is directed to dispose of the interim application in I.A.No.226 of 2014, within a period of two weeks from the date of receipt of a copy of this order and the learned I Additional Subordinate Judge, Coimbatore is also directed to conduct joint trial and thereafter, the suit may be disposed within a period of six months.

5. This Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is also closed.

29.03.2022

Index : Yes/No
Internet : Yes/No
Speaking : Non-speaking Order
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J.NISHA BANU,J.

kkd

To:

1. The Principal District Judge, Coimbatore.
2. I Additional Subordinate Judge, Coimbatore.
3. I Additional District Munsif, Coimbatore

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