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CRP.PD.No.2190 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.2190 of 2016  
and CMP.No.11397 of 2016

1.Minor R.Rahul

Rep. by his next friend A.Kalamani

2.A.Kalamani

... Petitioners

Vs.

1.V.Ramalingam

2.R.Geetha

3.V.Periyar Brain

4.J.Justin

... Respondents

**PRAYER:** Civil Revision petition is filed under Article 227 of the Constitution of India praying to set aside the fair and decretal orders dated 11.02.2016 in Tr.OP.No.49 of 2015 on the file of the Principal District Court, Coimbatore and to allow the civil revision petition.

For Petitioners : M/s.A.Kundavai

For Respondents

For R1 & 2 : No appearance

For R3 : Mrs.D.Kamatchi

**ORDER**

This civil revision petition has been filed as against the fair and decretal order passed in Tr.OP.No.49 of 2015 dated 11.02.2016 on the file of the Principal District Court, Coimbatore, thereby dismissing the petition seeking



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transfer of the suit filed by the petitioners in OS.No.1232 of 2014 from the file of the Principal Subordinate Court, Coimbatore to the file of the III Additional Subordinate Court, Coimbatore.

2. Heard, M/s.A.Kundavai, the learned counsel for the petitioners and Mrs.D.Kamatchi, the learned counsel for the third respondent.

3. The petitioners are the plaintiffs in the suit in OS.No.1232 of 2014 on the file of the Principal Subordinate Court, Coimbatore for partition filed as against the respondents 1 to 4 herein. The third respondent herein also already filed suit in OS.No.1547 of 2013 on the file of the III Additional Sub Court, Coimbatore seeking declaration and recovery of possession in respect of part of the property of the partition suit filed by the petitioners herein. However the petitioners are not parties to the suit filed by the third respondent herein for declaration and recovery of possession. It was filed only as against the first and fourth respondents herein. Therefore, the petitioners filed petition for transfer of their suit to club with the suit filed by the third respondent herein for joint trial and the same was dismissed by the court below on the ground that the parties are different, the properties are not described properly and therefore no need to



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order for joint trial.

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4. On perusal of records revealed that admittedly part of the property which was allegedly purchased by the third respondent herein is also under the partition suit filed by the petitioners. The third respondent filed suit for declaration and recovery of possession on the strength of the sale deed in respect of the suit property dated 04.01.2011 registered vide document No.39 of 2011.

5. On perusal of the written statement filed by the first respondent herein revealed that he completely denied the purchase of the said property. Though the petitioners are not party to the suit filed by the third respondent, the property which was alleged to have been purchased by the third respondent herein is also part of the property under the partition suit. In fact, the third respondent is a party to the partition suit filed by the petitioners herein. Therefore, in order to avoid multiplicity of proceedings, both the suits can be clubbed for joint trial. The power of ordering joint trial of cases inheres for the court as an inherent power. The court can order joint trial if it appears to it that some common question of law or fact arises in both proceedings or that the right



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to relief claimed in them are in respect of or arise out of the same transaction or series of transactions or that for some other reason it is desirable to make an order for joint trial. Where the plaintiff in one action is the same person as the defendant in another action, if one action can be ordered to stand as a counter claim in the consolidated action, a joint trial can be ordered. Therefore the court below failed to consider the above facts and circumstances of the case and dismissed the same. Hence, this Court finds some infirmity in the order passed by the court below and it is liable to be set aside.

6. Accordingly, the fair and decretal orders dated 11.02.2016 in Tr.OP.No.49 of 2015 on the file of the Principal District Court, Coimbatore are set aside and this civil revision petition is allowed and the suit filed by the petitioners in OS.No.1232 of 2014 on the file of the Principal Sub Court, Coimbatore is hereby withdrawn and transferred to the file of the III Additional Sub Court, Coimbatore for joint trial along with OS.No.1547 of 2013 on the file of the III Additional Sub Court, Coimbatore. The trial court i.e. the III Additional Sub Court, Coimbatore is directed to dispose of both the suits within the period of six months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. There shall be no



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order as to costs.

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Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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**G.K.ILANTHIRAIYAN, J.**



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To

- 1.The Principal Sub Court,  
Coimbatore
- 2.The III Additional Sub Court,  
Coimbatore

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