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C.R.P.(PD).No.1746 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2022

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

C.R.P.(PD).No.1746 of 2022

and

C.M.P.No.8800 of 2022

A.Duraisamy

... Petitioner

Vs.

M.Chellammal

... Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to issue an order of direction, for transferring the suit in O.S.No.350 of 2011 pending on the file of District Munsif Court, Attur to the Subordinate Court, Attur to try along with the suit in O.S.No.24 of 2018 and allow the above Civil Revision Petition.

For Petitioner : Mr.C.Prabakaran

ORDER

This Civil Revision Petition has been preferred challenging the order of the learned Principal District Judge, Salem dated 26.11.2021 made in Tr.O.P.No.33 of 2021.



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2. The revision petitioner was the petitioner in the Transfer Original Petition. The transfer petition was filed by the petitioner for transferring OS.No.350 of 2011 pending on the file of the District Musif Court, Attur to the Subordinate Court, Attur and to try it along with the other suit pending in O.S.No.24 of 2018. The learned trial Judge dismissed the Transfer Original Petition. Aggrieved over that the revision petitioner has preferred this Revision.

3. The learned counsel for the petitioner submitted that he has filed the suit in OS.No.350 of 2011 for the relief of permanent injunction and subsequently he has filed another suit in OS.No.24 of 2018 for the relief of declaration and recovery of possession. Since the particulars of the suit properties are one and the same, the interest of justice can be served if both the suits are tried simultaneously in one Court.

4. On perusal of the order of the learned District Judge it is seen that in the earlier case pending in OS.No.350 of 2011, the trial is already over and even at the time of filing the transfer petition, the said case was pending for judgment. The other suit has been filed after 7 years. If the petitioner is really



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aggrieved that the result of one of the suits would have a repercussion on the other suit, he ought to have filed a petition under Section 10 to stay one suit till disposal of the other suit. Instead of invoking such an option, he has chosen to file Transfer Petition at the stage when the trial in the other suit has been completed. At this stage even if the prayer of the petitioner is considered, there cannot be any possibility for simultaneous trial or joint trial. Therefore, I find no grounds to entertain this Revision.

5. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

15.06.2022

Index: Yes/No

Speaking / Non Speaking Order

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To

1.The District Munsif, Attur.

2.The Subordinate Judge, Attur.

3.The Principal District Judge, Salem.



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R.N.MANJULA, J

dsa

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