



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2022

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.PD.No.276 of 2017
and
CMP.No.1239 of 2017
and
S.A.No.1731 of 2004

Sundaramurthy

... Petitioner/Petitioner/Defendant

Vs.

Neelambal (Died)
1.Poonudurai
2.Ethiraj
3.Lakshmi

... Respondents / Respondents / Plaintiffs

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 23.11.2016 made in I.A.No.586 of 2016 in O.S.No.146 of 2001 on the file of the Principal District Munsif, Cuddalore.

For Petitioner .. Mr.D.Ravichander

For RR1 to 3 .. Mr.Ashok Menon

**ORDER**

WEB COPY Both the Civil Revision Petition and the Second Appeal had been directed to be heard together by the directions of the Hon'ble Chief Justice dated 08.03.2021. However, hearing both may not be possible as on date, particularly, because the issues raised in the Civil Revision Petition have become infructuous and the reason for that is as follows.

2.The revision petition has been filed questioning an order in I.A.No.586 of 2016 in O.S.No.146 of 2001 which suit was pending on the file of the Principal District Munsif Court, Cuddalore. The order in the aforesaid Interlocutory Application had been passed on 23.11.2016. The said Interlocutory Application had been filed under Section 10 of CPC to stay all further proceedings in O.S.No.146 of 2001 till the disposal of S.A.No.1731 of 2004. The Interlocutory Application had come up for consideration on 23.11.2016 before the Principal District Munsif, Cuddalore, who dismissed the said Interlocutory Application.

3.In view of the fact that I.A.No.586 of 2016 had been filed taking advantage of Section 10 of CPC and in view of the fact that under Section 10 of CPC, the necessary ingredients are that the parties who are in *lis* should be the same, that the subject matter and issues involved should be the same and there must be an earlier suit pending, which would also



touch upon the decision to be taken in the subsequent suit, it was sought that the Revision Petition and the Second Appeal should be heard together.

4. But I am informed that the Original Suit in which I.A.No.586 of 2016 had been filed, itself has been dismissed for default on 08.10.2017. Therefore, there is no Original Suit now pending on the file of the Principal District Munsif Court, Cuddalore and naturally, any further hearing in the Revision Petition would only be otiose as the issues have become infructuous.

5. The Civil Revision Petition, is therefore dismissed as infructuous. No order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

6. In view of this particular order passed, S.A.No.1731 of 2004 can be heard on its merits and the Registry is directed to place the matter before the Hon'ble Chief Justice for listing S.A.No.1731 of 2004 before the appropriate bench.

21.03.2022

Internet: Yes/No

Index: Yes/No

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To

The Principal District Munsif Court, Cuddalore.



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C.V.KARTHIKEYAN,J.

Smv

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