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C.R.P. No. 3767 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P.No.3767 of 2017
and
C.M.P.No. 17547 of 2017

1. Krishnaveni,
W/o. Eswaramurthy

2. Sivaganesh,
S/o.Eswaramurthy

3. Sivaprasath,
S/o. Eswaramurthy

4. Karpagam,
W/o. Ramasaamy

5. S.Krishnasamy,
S/o. Suppana Gounder

6. K.Santhosh,
S/o. Krishnasamy

... Petitioners

Vs.



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1. C.Murthy,
S/o. G.Sinnappan

2. K.Prakash,
S/o. Krishnasamy

... Respondents

PRAYER: Civil Revision Petition filed under Art. 227 of Constitution of India, praying to struck off the plaint and the pleadings initiated by the 1st respondent herein and pending as O.S.No.1363 of 2017 on the file of the Principal Sub Court, Coimbatore.

For Petitioners : Mrs.P.V.Rajeswari

For Respondents : Mr.R.Radhakrishnan for R1

R2 – No appearance

ORDER

The revision petitioners are the defendants 1 to 5 and 7 in the suit in O.S.No.1363 of 2017 on the file of Principal Sub-Court, Coimbatore, which was filed by the 1st respondent/plaintiff herein for the relief of permanent injunction against the defendants 1 to 7 and also filed Interlocutory Application in I.A.No.1262 of 2017, in which trial court granted interim order against the Revision Petitioners in respect of suit property in S.F. No.198/2B to an extent of 2.17 acres in Vilankurichi Village, Coimbatore Taluk.



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2. Having come to know about the said proceedings, the defendants 1 to 5 and 7 filed this Revision Petition stating that the plaintiff filed the suit in O.S.No.1363 of 2017 suppressing the earlier suit filed by the Revision Petitioners in O.S.No. 823 of 2015 on the file of District Munsif Court, Coimbatore, which was filed by them for the relief of declaration and permanent injunction in respect of same suit property in S.F.No. 198/2B. In that suit, the plaintiff appeared through his counsel and also filed vakalat, and sought time to file the written statement for nearly about 3 years. Thereafter, due to non-filing of written statement, they were remained exparte on 20.03.2017. Thereafter, instead of taking steps to set aside the exparte order, he has filed the present suit in O.S.No.1363 of 2017 in the month of September 2017 for the relief of permanent injunction against the same property suppressing the earlier proceedings, wherein he has appeared as one of defendants. The conduct of plaintiff shows that he abused the process of law and obtained the interim order by suppressing the real facts. Hence, he prayed to set aside the proceedings in O.S.No. 1363 of 2017 as unjust, arbitrary and erroneous one.



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WEB COPY 3. By way of reply, learned counsel appearing for 1st respondent/plaintiff submitted that earlier counsel, who appeared for him not disclosed about the suit proceedings and another counsel has filed a suit without knowing the earlier suit proceedings. Due to the mistake committed by the counsel, the parties should not be suffered, but he fairly admits that in the suit in O.S.No.1363 of 2017, he has obtained interim order, against which, the present Civil Revision Petition. The defendants have not taken steps to vacate the interim order and the plaintiff is ready to cooperate with the trial in the earlier suit in O.S.No. 823 of 2015 and prayed to try along with the suit in O.S.No.1363 of 2017.

4. Heard and considered rival submissions made by learned counsel appearing for revision petitioners as well as 1st respondent and perused the records.

5. On considering submissions of both sides and on perusal of records, it would clearly reveals that the Revision Petitioners filed a suit in



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O.S.No. 823 of 2015 for a comprehensive relief and thereafter, without mentioning the earlier proceedings, the 1st respondent/plaintiff filed a suit in O.S.No.1363 of 2017, which would clearly shows that suppressing the earlier suit proceedings, but however, considering the submissions made by the revision petitioners that due to the mistake committed by the counsel, the parties are not supposed to be affected. Hence, the interim order passed in I.A.No.1262 of 2017 in O.S.No.1363 of 2017 is ordered to be vacated and the learned Principal Sub-Judge, Coimbatore is directed to transfer the suit in O.S.No.1363 of 2017 on the file of IV Addl. District Munsif Court, Coimbatore and to try along with the suit in O.S.No.823 of 2015 on the file of IV Addl. District Munsif Court, Coimbatore. The plaintiffs in the suit in O.S.No. 823 of 2015 are permitted to adduce their evidence, since it is a comprehensive suit and both parties are directed to cooperate with the proceedings before the trial court.

6. In the result, this Civil Revision Petition is disposed of and the order passed by the trial court in I.A.No. 1262 of 2017 is set aside. However, since the suits are pending from the year 2015 and 2017



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respectively, the trial court is directed to dispose the cases within a period of eight months from the date of receipt of copy of this order. No costs.

Consequently, the connected Civil Miscellaneous Petition is closed.

14.10.2022

Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
rpp

To

1. IV Addl. District Munsif,
Coimbatore.
2. Principal Sub-Judge,
Coimbatore.



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T.V.THAMILSELVI, J.

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