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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

Coram

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

CRP No.75 of 2017  
and  
C.M.P.No.380 of 2017

Rudramurthy

... Petitioner/1<sup>st</sup> Respondent

Vs.

1.M.Janaki  
2.D.Devi  
3.Saradha  
4.Nithyanandam  
5.Gnanavel  
6.Gunaseelan  
7.S.Damodaran

... Respondents/Petitioners/Respondents 2 to 6

Civil Revision Petition filed under Section 115 of CPC, against the fair and decretal order dated 07.11.2016 in Transfer O.P.No.41 of 2015 on the file of the Principal District Judge, Vellore for withdrawal and transfer of the suit in O.S.No.3 of 2012 on the file of the District Munsif Court, Arakonam, to the file of Subordinate Court, Arakonam to try jointly with O.S.No.57 of 2015 pending before it.

For Petitioner : Mr.P.Chandrasekaran

For R1 to R3 : Mr.P.Krishnan

For R4 to R7 : No appearance

ORDER

The Civil Revision Petition has been filed questioning the order in Transfer O.P.No.41 of 2015 passed by the learned Principal District Judge, Vellore which order was dated 07.11.2016.



2.The revision petitioner herein is the brother of the respondents. He had filed a suit before the District Munsif Court, Arakonam in O.S.No.3 of 2012 seeking declaration of title. For good measure the 3<sup>rd</sup> respondent / his sister had filed a suit in O.S.No.57 of 2015 in Sub Court, Arakonam seeking partition and separate possession of the same property.

3.Thereafter, the plaintiff / sister in O.S.No.57 of 2015 had filed Transfer O.P.No.41 of 2015 before the Principal District Court at Vellore seeking to transfer O.S.No.3 of 2012 filed by the revision petitioner herein to the Sub Court at Arakonam for trial to be conducted jointly. The learned Principal District Judge had allowed the said Transfer Petition, necessitating the filing of the present Civil Revision Petition.

4.Mr.P.Chandrasekaran, learned counsel for the revision petitioner raised a grievance stating that the revision petitioner herein, had filed a suit for declaration of title and if that suit is transferred to the Sub Court, Arakonam, then the petitioner would loose a valuable right of one stage of Appeal in the District Court itself and therefore stated that the petitioner is deeply aggrieved and prejudiced by the order.

5.Mr.P.Krishnan, learned counsel for the respondent however, contended that since the issues raised in the two suits overlap and the property is also the same and parties are also some, it would only be appropriate that the suits are tried together.

6.Having given my consideration to the arguments advanced, I am of the opinion that it would be advantageous to even the revision petitioner and also incidentally to the respondents herein that both the suit in O.S.No.3 of 2012 and O.S.No.57 of 2015 are tried together and the appropriate Court would be the Sub Court at Arakonam. The petitioner will have to lead evidence that title is exclusively in his name and the respondents may lead evidence whether they are entitled to claim a share in the property. Both the evidence will have to be tested during cross-examination and practically on the same grounds.

7.Therefore, it is only appropriate that both the suits are tried together. Let me not interfere with the order of the learned Principal District Judge.

8.A request is placed by the learned counsel Mr.P.Krishnan, that some time limit may be given to the learned Sub Judge, Arakonam to dispose of both the suits.

9.It must be kept in mind, that only when this particular order reaches the Sub Court Arakonam, can both the suits be



considered to be tagged together and tried together. That initial process itself will take some time. If the pleadings are completed, then trial proceeds in manner known to law, a an obligation is placed on the learned Sub Judge, Arakonam to dispose of both the suits after giving full opportunity to all on or before 31.03.2023.

10. With the above observation, the present Civil Revision Petition is dismissed. Consequently, connected Civil Miscellaneous Petition is closed. No order as to costs.

Sd/-  
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

smv

To

1. The Principal District Judge,  
Vellore.
2. The Subordinate Judge,  
Arakonam.
3. The District Munsif,  
Arakonam.
4. The Section Officer,  
VR Section,  
High Court, Madras.

+1cc to Mr.P.Krishnan, Advocate, S.R.No.12822

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KK(CO)  
SU(11/03/2022)