



CRP PD(MD)No.1277 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.06.2022

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

CRP PD(MD)No.1277 of 2022 and  
CMP(MD) No.5243 of 2022

Chellapandian

... Petitioner

Vs

1.Amutha  
2.Muniammal  
3.Selvamani  
4.Nadiyammal  
5.Niraimathi  
6.Annadurai  
7.The Sub Registrar,  
Sub Registrar Office,  
Vallam, Thanjavur Taluk & District.

8.The District Registrar,  
District Registrar Office,  
Kamarajar Road,  
Srinivasapuram,  
Thanjavur Town.

9.Sevugaperumal  
10.Govindarasu  
11.Durai  
12.Arul Ramalingam

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- 13.Alexraj  
14.The District Collector,  
Collectorate,  
Trichy.  
15.The Superintendent of Police,  
Office of the Superintendent of Police,  
Trichy Main Road,  
Thanjavur Town.

- 16.Rajamanickam  
17.Siva  
18.Vinoth  
19.Anandh  
20.Murali

... Respondents

**Prayer:** Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 06.12.2021 passed in I.A.No.2 of 2021 in O.S.No.158 of 2021, passed by the Additional Sub Court, Thanjavur.

For Petitioner : Mr.M.V.Venkateshan

For Respondents : No appearance

## **ORDER**

This Civil Revision Petition is filed as against the fair and decreetal order passed by the Additional Sub Court, Thanjavur in I.A.No.2 of 2021 in O.S.No.158 of 2021, dated 06.12.2021.



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2.The petitioner is the plaintiff in O.S.No.158 of 2018, which was filed before the Additional Subordinate Court, Thanjavur for the relief of declaration. The respondents are the defendants in the suit and they have taken out an application in I.A.No.2 of 2021 stating that the plaintiff in O.S.No.158 of 2018 has already filed a suit in O.S.No.186 of 2013 for partition as against his mother and sisters with regard to item 4 of suit schedule property, which is the suit property of O.S.No.158 of 2018 also. Pending the suit, the defendants in the earlier suit in O.S.No.186 of 2013 have sold the property to the first respondent herein. The petitioner has also taken out an application to implead the first respondent as a party to the earlier suit in O.S.No.186 of 2013 and as of now, he is also a party to the proceedings. Now the suit in O.S.No.158 of 2018 is filed to declare that the sale deed executed by the defendants 3 & 4 through their power agent as null and void. Pending the suit, 9<sup>th</sup> defendant in the suit has taken out an application in I.A.No.2 of 2021 under section 10 of Civil Procedure Code, to stay the proceedings in O.S.No.158 of 2018 that the same suit property is also the subject property in the suit in O.S.No.186 of 2013. The petitioner/plaintiff has also filed a counter admitting the fact that the suit



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properties are one and the same in the both the suits. However, they have insisted for joint trial. The trial court has passed this order in I.A.No.2 of 2021 by following Section 10 of Civil Procedure Code, which is extracted as under:-

**Section 10 of Civil Procedure Code:-**

No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in (India) have jurisdiction to grant the relief claimed, or in any Court beyond the limits of (India) established or continued by (the Central Government) and having like jurisdiction, or before (the Supreme Court).

3.This Court considered the submissions made by the learned counsel appearing for the petitioner and also perused the materials placed on record.



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4. Admittedly, the petitioner/plaintiff already filed a suit in O.S.No.186 of 2013 for partition in respect of suit property in O.S.No.158 of 2018, as against her mother and sisters. The suit is posted for trial. Pending the suit, the defendants 3 & 4 in the earlier suit gave power of Attorney to the 8<sup>th</sup> defendant and through the 8<sup>th</sup> defendant, one of the properties has been sold to the 9<sup>th</sup> defendant/first respondent herein and therefore the petitioner/plaintiff has filed the present Suit in O.S.No.158 of 2018 to declare that the sale deed, dated 12.07.2017 is null and void. Since the other suit filed for partition in O.S.No.186 of 2013 is ripe for trial, the 9<sup>th</sup> defendant/first respondent has taken out this application under Section 10 of CPC and the same has been allowed by the trial Court to stay the proceedings pending disposal of the earlier suit. This Court finds no infirmity in the order of the trial Court.

5. At this juncture, the learned counsel appearing for the petitioner apprehends that pending the suit, if the first respondent creates some more documents, the petitioner would be put under irreparable loss, for which, the learned counsel appearing for the first respondent undertakes



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that he will not alienate the property pending the suit in O.S.No.186 of 2013 and the undertaking given by the first respondent is recorded. Considering the fact that the suit is of the year 2013, there shall be a direction to the trial Court to conclude the trial and dispose of the suit in O.S.No.186 of 2013, within a period of six months from the date of receipt of a copy of this order.

6. Accordingly, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

**28.06.2022**

Index : Yes / No.

Internet : Yes / No.

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To

The Additional Sub Court, Thanjavur.



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**B.PUGALENDHI, J.**

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**Order made in**  
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**28.06.2022**