



CRP(PD)(MD)No.1512 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.1512 of 2022 and
CMP(MD) No.6348 of 2022

1.S.Periyasamy
2.Sekar

... Petitioners

Vs

1.K.Kandasamy
2.The Village Administrative Officer,
Nerur North Village,
Manmangalam Taluk,
Karur District.

3.The Tahsildar,
Taluk Office,
Manmangalam.

4.State rep by the District Collector,
Having office at Collectorate,
Thanthonimalai,
Karur Taluk,
Karur District.

5.The Sub Registrar No.I,
Joint Karur Sub Registration Office,
Karur.



CRP(PD)(MD)No.1512 of 2022

6.The District Registrar,
Having Office at Collectorate,
Thanthonimalai,
Karur Taluk,
Karur District,
Karur.

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 24.02.2022 made in Tr.O.P.No.50 of 2021, on the file of the District Judge, Karur in O.S.No.185 of 2013, on the file of the Principal District Munsif Court, Karur.

For Petitioner : Mr.S.Gokulraj

ORDER

This Civil Revision Petition is filed as against the order of the learned District Judge, Karur in Tr.OP.No.50 of 2021, dated 24.02.2022

2.The petitioners, who are the defendants in O.S.No.185 of 2013 have filed a suit in O.S.No.568 of 2021, for the relief of declaration and for permanent injunction, with regard to the suit schedule property in O.S.No. 185 of 2013. The suit in O.S.No.568 of 2021 filed by the petitioners is pending before the Additional Sub Court, Karur. The earlier suit in O.S.No.



CRP(PD)(MD)No.1512 of 2022

185 of 2013 filed by the respondents herein is pending before the Principal District Munsif Court, Karur and therefore the petitioners have taken up the above application in Tr.OP.No.50 of 2021, before the District Court, Karur, seeking transfer of the suit in O.S.No.185 of 2013 from the file of the Principal District Munsif, Karur to the Additional Sub Court, Karur to try along with Suit in O.S.No.568 of 2021 and for a joint trial along with the suit in O.S.No.568 of 2021. The trial Court dismissed the same by order dated 24.02.2022. Aggrieved over the same, the present Civil Revision Petition is filed.

3.At the outset, the learned counsel appearing for the petitioner expresses his concern that the Court while dismissing the transfer application filed for transferring the suit has also went to an extent of observing that the petitioners are not having any merit in O.S.No.568 of 2021 and when the suit is pending before the concerned Court, the matter has to be decided only by way of adducing evidence before the Court, where it is pending. According to the petitioners' counsel, the observation of the learned Judge would certainly affect the merits of the suit filed by the petitioners before the



CRP(PD)(MD)No.1512 of 2022

Additional Sub Court, Karur in O.S.No.568 of 2021. It is his further concern that if there are two suits pending on the very same suit property in two different courts, there is possibility of conflicting of decisions and also the rights of the parties would be affected and hence joint trial is required.

4.This Court considered the arguments made on behalf of the petitioners and also perused the materials placed on record. Since no adverse order is going to be passed as against the respondents, notice to them is dispensed with.

5.The trial Court has held that the suit filed by the respondents against the petitioners herein for the relief of mandatory injunction in O.S.No.185 of 2013 is pending before the Principal District Munsif Court, Karur. The suit was ripe for trial and PW 1 was examined in the year 2015 itself. At the time of cross examination, the petitioners took time and filed the following Interlocutory Applications:-

1. I.A.No.87 of 2016 - for filing additional written statement.

2.I.A.No.716 of 2018 - for rejecting the plaint.



CRP(PD)(MD)No.1512 of 2022

The above applications have been dismissed by the trial Court on the ground that the petitioners have filed the above petitions only to drag on the proceedings. Thereafter, the petitioners have filed the suit O.S.No.568 of 2021 in the year 2021. The relief sought for in the said suit is for declaration of title based on the principle of adverse possession. The Court while dismissing the application filed by these petitioners for transferring the case has also went to an extent that the adverse possession is not a good law in view of the recent judgment of the Honourable Supreme Court. This observation ought to have been avoided by the learned judge at the time of deciding the transfer application. On this score alone, this Court is inclined to accept the submission made by the learned counsel for the petitioners and allow the Civil Revision Petition partly by deleting the observations made by the learned judge with regard to the merits of the suit filed by the petitioners in O.S.No.568 of 2021. In respect of other findings of the trial Court in entertaining the transfer application, this Court satisfied that the earlier suit in O.S.No.185 of 2013 was filed by the respondents in the year 2013 and it was also riped for trial in the year 2015 and from the year 2015 the petitioners, who are defendants in the suit have not taken any steps to cross



CRP(PD)(MD)No.1512 of 2022

examine the witnesses by filing several interlocutory applications and thereafter filed the suit in O.S.No.568 of 2021 in the year 2021, i.e after eight years from the date of filing of the suit in O.S.No.185 of 2013. Though the suit schedule property in both suits is one and the same, this Court is not inclined to entertain this application on the ground that filing of several interlocutory applications and suit in O.S.No.568 of 2021 by the petitioners is only for the purpose of dragging on the proceedings of the suit filed by the respondents. However, the petitioners are at liberty to independently establish their rights in the suit, which has been entertained by the Sub Court, Karur in O.S.No.568 of 2021.

6.Considering the fact that the suit in O.S.No.185 of 2013 has been filed in the year 2013 and is still pending, a direction is hereby issued to the learned Principal District Munsif, Karur to dispose of the suit filed by the respondents in O.S.No.185 of 2013, within a period of six months from the date of receipt of a copy of this order.



CRP(PD)(MD)No.1512 of 2022

7. With the above liberty and direction, this Civil Revision

Petition is partly allowed. No costs. Consequently, connected Miscellaneous
Petition is closed.

22.07.2022

Index : Yes / No.

Internet : Yes / No.

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To

1. The Principal District Munsif Court, Karur.

2. The Additional Sub Court, Karur.



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CRP(PD)(MD)No.1512 of 2022

B.PUGALENDHI, J.

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Order made in
CRP(PD)(MD)No.1512 of 2022

22.07.2022