



C.R.P.Nos.2028 & 2029 of 2023

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

Civil Revision Petition. Nos.2028 & 2029 of 2023

1. K.Jagadeesan

2. J.Parimalam

.... Petitioners in both C.R.Ps

Versus

Krishnan

... Respondent in both C.R.Ps

Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India prays for a direction to the learned Principal District Judge, Salem to dispose of the Interlocutory Application in I.A.Nos.1 & 2 of 2023 in Tr.O.P.No.99 of 2023 within the time frame fixed by this Court.

In both C.R.Ps.:

For Petitioners : Mr.V.Elangovan

For Respondent : Mr.N.Manoharan



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COMMON ORDER

These Civil Revision Petitions are filed seeking for disposal of I.A.Nos.1 & 2 of 2023 in Tr.O.P.No.99 of 2023 within a stipulated time.

2. Heard both sides and perused the materials placed on record.

3. The respondent/plaintiff has filed a suit in O.S.No.136 of 2017 on the file of the I Additional District Judge at Salem for specific performance and for other reliefs and the same is pending at the trial stage. During the pendency of the above said suit, defendants have filed an application in I.A.No.1 of 2023 to stay all further proceedings in O.S.No.136 of 2017. Further, respondent/plaintiff also filed another suit in O.S.No.159 of 2018 against the petitioners/defendants on the file of the II Additional District Judge at Salem for recovery of money and the same is pending at the stage of framing issues.

4. In the meanwhile, the petitioners/defendants have filed a petition in Tr.O.P.No.99 of 2023 under Section 24 of C.P.C., before the learned Principal District Judge, Salem to transfer the suit in O.S.NO.136 of 2017



pending on the file of the learned I Additional District Judge, Salem, to the II

Additional District Judge, Salem and try along with O.S.No.159 of 2018.

Pending Tr.O.P.No.99 of 2023, the petitioners/defendants have filed an application in I.A.No.2 of 2023 to stay all further proceedings in O.S.No.159 of 2018.

5. Subsequently, the respondent/plaintiff has filed A.S.No.87 of 2019 to set aside the judgment and decree dated 20.12.2017 made in O.S.No.136 of 2017 on the file of the I Additional District Court, Salem and C.R.P.No.1995 of 2019 to set aside the fair and decretal order dated 29.04.2019 made in I.A.No.2 of 2019 in O.S.No.136 of 2017 on the file of the I Additional District Court, Salem. This Court, by order dated 14.12.2022, had dismissed CRP.No.1995 of 2019, and in view of the setting aside of the ex-parte decree passed in O.S.No.136 of 2017, nothing survives in the Appeal suit. Since, already the suit was decreed by judgment and decree dated 20.12.2017 in O.S.No.136 of 2017 and the same was set aside by an order dated 29.04.2019, nothing survive for further adjudication in the Appeal suit.

6. The learned counsel for the petitioners submitted that the Suit in



O.S.No.136 of 2017 was posted for plaintiff side witness, on 05.06.2023. It is pertinent to note that the petitioners filed the Transfer Original Petition, and in the above pending transfer application, they have filed the interlocutory application to stay the suit, pending disposal of the above transfer application. Hence, it is just and necessary to dispose of the case in I.A.No.1 of 2023 in Tr.O.P.No.99 of 2023.

6. Considering the facts and circumstances of the case and the submissions made by the learned counsel for both sides, this Court is inclined to pass the following order

“ O.S.No.159 of 2018 pending on the file of the II Additional District Court, Salem is transferred to the file of the I Additional District Court, Salem and I Additional District Court, Salem, is directed to dispose of the suit in O.S.No.136 of 2017 along with O.S.No.159 of 2018 as per the procedure established in law.”

7. With these observations, these Civil Revision Petitions are disposed of. No costs.

21.07.2023

jai

Index:Yes/No

Speaking Order: Yes/No



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WEB CLOSURE
To
The Principal District Court,
Salem.



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V. BHAVANI SUBBAROYAN, J.

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