



C.R.P(PD)No.2005 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Civil Revision Petition (PD) No.2005 of 2021
and C.M.P.No.15233 of 2021

A.K.Mohammed Ibrahim

... Petitioner

Vs.

1.Kamrunnisa

2.S.K.Senthilkumar

3.S.Thenmozhi

... Respondents

Civil Revision Petition filed under Article 227 of Constitution of India,
praying to set aside the fair and decretal order dated 19.03.2021 in
Tr.O.P.No.93 of 2020 on the file of Principal District Court, Salem.

For Petitioner : Mr.R.Subramanian

For Respondent 1 : Mr.J.Sudhakaran

For Respondents 2 & 3 : Given up



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ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order dated 19.03.2021 in Tr.O.P.No.93 of 2020 on the file of Principal District Court, Salem.

2. The case of the petitioner is that the petitioner has filed a Transfer Original Petition in Tr.O.P.No.93 of 2020 before the Principal District Court Salem to transfer the suit O.S.No.827 of 2018 pending on the file of the I Additional Subordinate Court, Salem to the file of II Additional District Court, Salem to try along with the suit in O.S.No.89 of 2019. However, the said petition was dismissed with a cost on 19.03.2021 and the petitioner was directed to pay the said cost of Rs.2500/- to the I Additional Subordinate Court, Salem within one month from the date of the order. Challenging the said order dated 19.03.2021, the petitioner has come forward with the present civil revision petition.

3. The learned counsel for the petitioner submitted that the petitioner has filed O.S.No.89 of 2019 against the first respondent before the II



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Additional District Court, Salem for the relief of declaration, possession and permanent injunction. Prior to the filing of the said suit, the first respondent has filed suit in O.S.No.827 of 2018, before the I Additional Subordinate Court, Salem for declaration and permanent injunction. The above said two suits are between same parties and with regard to the same properties and the issues involved in both the suits are interlinked with each other. Hence, in order to avoid multiplicity of proceedings, he has filed Tr.O.P.No.93 of 2020 on the file of Principal District Court, Salem to transfer the suit O.S.No.827 of 2018 to the II Additional District Court, Salem. However, without considering the said aspects, the Court below has dismissed the petition with a cost of Rs.2500/-.

4. The learned counsel for the petitioner further submitted that since the prayer in both the suits are one and the same, this Court may direct the Court below for joint trial.

5. Heard the learned counsel on either side and perused the materials available on record.



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6. Considering the limited request of the learned counsel for the petitioner that the relief sought in both the suits are one and the same, this Court is inclined to set aside the fair and decreetal order dated 19.03.2021 passed by the Principal District Judge, Salem in Tr.O.P.No.93 of 2020 and transfers the suit O.S.No.827 of 2018 pending on the file of the I Additional Subordinate Court, Salem to the file of II Additional District Court, Salem to try along with the suit in O.S.No.89 of 2019 for joint trial.

7. In the result, this Civil Revision Petition stands disposed of with the above observation and direction. No costs. Consequently, connected miscellaneous petition is also closed.

14.12.2023

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Index : Yes/No

Speaking Order : Yes/No

J. SATHYA NARAYANA PRASAD, J.



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