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CRP No.4300 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.4300 of 2023
and C.M.P. No. 26191 of 2023

K.Premanand

... Petitioner

Vs.

1. K.Deepa Lakshmi

2. Mythili

...Respondents

Prayer : Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the order dated 26.10.2022 passed in I.A.No.4 of 2021 in O.S.No.1564 of 2021 by VI Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr.K.Pradeep

ORDER

This Civil Revision Petition has been filed to set aside the order dated 26.10.2022 passed in I.A.No.4 of 2021 in O.S.No.1564 of 2021 on the file of VI Additional Judge, City Civil Court, Chennai.

2. Heard Mr.K.Pradeep, learned counsel appearing for the petitioner.



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3. The petitioner/second defendant has filed a petition under Section 10 of CPC read with Section 151 of CPC in I.A.No.4 of 2021 to stay the proceedings in O.S.No.1564 of 2021.

4. The Trial Court has dismissed the same on the ground that for the same property, the parties have filed an earlier suit before this Court in C.S.No.290 of 2016 and the same is pending, however the plaint copy of earlier suit in C.S.No.290 of 2016 has not been produced before this Court by the petitioner/second defendant.

5. Learned counsel appearing for the petitioner submits that during the enquiry he has produced the plaint copy, but the Trial Court erroneously made such an observation and also pointed out that the relief in both suits are same.

6. On perusal of the records, it is seen that the earlier suit in C.S.No.290 of 2016 is a suit for partition filed by the same parties in the present suit also i.e., in O.S.No.1564 of 2016, therefore, this Court is inclined to set aside the proceedings in I.A.No.4 of 2021 in O.S.No.1564 of 2021 and remand back the same for re-consideration.



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7. The learned trial Judge is directed to dispose of I.A.No.4 of 2021 in O.S.No.1564 of 2021 on merits and in accordance with law by giving an opportunity to both sides as early as possible.

8. Accordingly, this Civil Revision Petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

05.12.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation:Yes/No
mp

To
1. The VI Additional Judge, City Civil Court, Chennai.
2.The Section Officer,
VR-Section, High Court of Madras.



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T.V.THAMILSELVI, J.

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