



C.R.P.No.4780 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2023

CORAM:
THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.4780 of 2023

N.Balasubramaniam

... Petitioner

-Vs-

1. P.Nachimuthugounder

2. Pushpavathi

3. P.Nachimuthugounder

4. Minor B.Rathish

5. Minor B.Sandeesh

4th and 5th petitioners are represented

by next friend and guardian Mrs.B.Gomathi

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside order dated 30.03.2023 passed in Tr.O.P.No. 109 of 2023 by the learned Principal District Judge, Tiruppur.

For Petitioner

: Mr.S.Umamaheswari



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ORDER

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Challenging the impugned order passed in Tr.O.P.No. 109 of 2023 passed by the learned Principal District Judge, Tiruppur, the Revision Petitioner/petitioner preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioner filed a petition to transfer the suit in O.S.No. 185 of 2008 on the file of Addl. Sub-Judge, Tiruppur to try along with another suit in O.S.No.24 of 2019 on the file of Addl. District and Sessions Judge No.1, Tiruppur jointly. That petition was dismissed by the trial judge holding the suit in O.S.No. 185 of 2008 is of the year 2008 and the present suit filed by the revision petitioner is of the year of 2019. So, he is not entitled to combine the suit of the year 2008 with the present suit of the year of 2019. Challenging the said findings, the Revision Petitioner preferred this Civil Revision Petition.



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4. The learned counsel for Revision Petitioner would submit that now both suits are ripe for trial and so, both suits can be tried jointly. It is not granted, it would result in conflict of decisions by two different courts on the similar relief based on different claims on their respective rights. But without considering his submissions, the trial judge dismissed the petition. So, he prayed to set aside the findings of trial judge.

5. Records perused. Admittedly, both the suits are now ripe for trial and if opportunity is not given to him, his valuable right to defend the case will be defeated. So, in order to avoid multiplicity of proceedings and on considering the fact that in the suit of the year 2008 is ripe for trial in O.S.No. 185 of 2008, the revision petitioner remained exparte. Now setting aside the exparte order, an application was filed and the defendants have also filed their written statements. Furthermore, both parties are one and the same and the property under dispute is also same. So, to avoid multiplicity of proceedings, both suits are to be tried jointly. But the trial judge erroneously dismissed the petition and the same is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings of the trial judge in Tr.O.P.No. 109 of 2023 is set aside and the said



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petition is ordered to be allowed. However, as on date, in respect of the suit in O.S.No.185 of 2008, there is a stay in C.R.P. proceedings, so, after the disposal of C.R.P., the trial judge is directed to try both suits in O.S.No.185 of 2008 and O.S.No.24 of 2019 jointly. Both parties are directed to cooperate with the trial proceedings. No costs.

19.12.2023

Index : Yes/No
Speaking Order : Yes/No
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To

The Principal District Judge, Tiruppur.

T.V.THAMILSELVI, J.



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