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CRP No.4788 of 2023 and
C.M.P.No. 28400 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.4788 of 2023
and
C.M.P. No. 28400 of 2023

Visaga Prabhu

... Petitioner

Versus

1.D.Malathi

2. R.Yasodhai Ramalingam

3. Rajamani

4. Kannappan

5. D.Gandhimathi

6. Sub-Registrar,
Office of the Sub-Registrar,
Cutchery Street,
Udumalpet - 642 126.

...Respondents

Civil Revision Petition filed Under Article 227 of Constitution of India, praying to allow the revision petition by setting aside the fair and decretal order dated 09.03.2023 made in Transfer O.P.No. 99 of 2023 in O.S.No. 376 of 2022 on the file of Principal District Court, Tiruppur.



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For Petitioner : Mr. S.Sathya Narayanan
For Respondents : Mr. P. Valliappan
Standing Counsel
for P.V.Law Associates

ORDER

The petitioner has filed this revision petition to set aside the fair and decretal order dated 09.03.2023 made in Transfer O.P.No. 99 of 2023 in O.S.No. 376 of 2022 on the file of Principal District Court, Tiruppur.

2. Before the trial Court the petitioner has filed Tr.OP.No.99 of 2023 to transfer the O.S.No.376 of 2023 pending on the file of the Subordinate Court, Udumalpet to the Additional District Court, Udumalpet for being jointly tried along with O.S.No.238 of 2016 pending on the file of Additional District Court, Udumalpet for an alternative relief and the same was contested by the 1st respondent / plaintiff on the ground that the earlier suit filed in O.S.No.238 of 2016, the revision petitioner is the 14th defendant and raised all the objections in respect of the validity of the settlement deed and issues were framed and evidences were adduced and all the witnesses were extensionally examined by all the parties concerned including the revision petitioner and when the suit is posted for arguments, the petitioner filed Transfer OP to transfer the O.S.No.376 of 2023 pending on the file of the Subordinate Court,



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Udumalpet to the Additional District Court, Udumalpet and the said application was dismissed by the learned trial Judge holding that already evidences were recorded in the early suit in O.S.No.238 of 2016. Now the case is posted for arguments, at this stage he wants to transfer the suit O.S.No.376 of 2022, which was filed after 6 years of the earlier suit and which is now under the stage of filing of written statement. Therefore, the transfer of the case from new suit to the old suit, as such is not permissible and accordingly, dismissed the transfer OP. Aggrieved by the said order, the revision petitioner has preferred this revision.

3. The revision petitioner is the plaintiff in O.S.No.376 of 2022 and D14 in the earlier suit in O.S.238 of 2016. Admittedly, in the earlier suit O.S.No.238 of 2016, he had filed his written statement and taken all the defence which needs to be taken in the new suit. Moreover, he also submitted his evidence before the trial Court and now all the evidences were recorded and the case is now posted for arguments. Even as per the written statement filed by him in O.S.No.238 of 2016, as rightly pointed out by the 1st respondent / plaintiff in the suit, he raised all the defence, more particularly, the validity of the settlement deed and to that effect issues were also framed. Therefore, the completion of the trial in O.S.No.238 of 2016 would not cause



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T.V.THAMILSELVI, J.

any prejudice to the present revision petitioner. The findings rendered by the learned trial Judge needs no interference.

4. However, with regard to the validity of the settlement deed the learned trial Judge is directed to frame the issues and decide the same in the manner known to law.

5. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

22.12.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation:Yes/No
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To
1. The Principal District Judge, Tiruppur.
2.The Section Officer, VR-Section, High Court of Madras.

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