



CRP(PD)(MD)No.225 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.225 of 2023
and
CMP(MD)No.1073 of 2023

D.Stephen Vedharaja

... Petitioner

Vs

1.V.Vaduvanathan

2.Thanjavur Municipality
Rep by its Commissioner.

3.The Assistant Electric Engineer,
Rep by its Thanjavur.

4.The Superintending Engineer,
TNEB, Thanjavur.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, as against the fair and decreetal order passed by the learned Additional District Munsif, Thanjavur in I.A.No.333 of 2021 in O.S.No.104 of 2013, dated 03.08.2022.



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For Petitioner : Mr.I.Velpradeep

ORDER

This Civil Revision Petition is filed as against the fair and decreetal order passed by the learned Additional District Munsif, Thanjavur in I.A.No.333 of 2021 in O.S.No.104 of 2013, dated 03.08.2022.

2.The case of the petitioner is that the first respondent herein has filed a suit in O.S.No.4 of 2012, before the District Court, Thanjavur, impeaching the mortgage. The petitioner also filed counter claim of recovery of possession. The suit was decreed by the trial Court on 05.11.2014 in favour of the respondent, whereas, the counter claim of the petitioner was dismissed. Challenging the same, the petitioner filed appeals in A.S.No.200 of 2014 and 130 of 2016 before this Court and the appeals were also dismissed by this Court on 26.04.2017. As against the Judgment of this Court in the above appeals, the petitioner preferred Special Leave Petitions in SLP Nos.924 and 925 of 2018,

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before the Honourable Supreme Court and the same is still pending.

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Thereafter, the first respondent herein filed a suit in O.S.No.104 of 2013, before the Additional District Munsif Court, Thanjavur, as against the petitioner herein and three other Government Officials. (The Commissioner, Thanjavur Municipality, The Assistant Electric Engineer, Tamil Nadu Electricity Board, Thanjavur and Tamil Nadu Electricity Board, Thanjavur) for the relief of declaration and for permanent injunction. Pending the suit, the petitioner filed I.A.No.333 of 2021 in O.S.No.104 of 2013, under Section 10 of Civil Procedure Code, to stay the proceedings in O.S.No.104 of 2013, till the disposal of Special Leave Petitions pending before the Honourable Supreme Court. However, the trial Court dismissed the application on the ground that the issues framed in both the suits are different and the examination of witnesses has also been commenced in the present suit. Aggrieved over the same, the present Civil Revision Petition is filed.



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3.The learned counsel appearing for the petitioner submits that the averments in the complaints, the parties and the suit schedule properties in both the suits are one the same and therefore, the proceedings in the present suit in O.S.No.104 of 2013 has to be necessarily stayed by the trial Court. He further submits that the first respondent has suppressed the earlier proceedings and filed the present suit. The legal points to be decided in both the suits are identical in nature. However, the trial Court without considering these aspects has erroneously dismissed the application filed by the petitioner. In order to avoid the multiplicity of the proceedings, it is necessary to stay the proceedings in O.S.No.104 of 2013.

4.Heard the learned counsel appearing for the petitioner and perused the materials placed on record. Since no adverse order is going to be passed as against the respondents, notice to the respondents is dispensed with.



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5.The petitioner, who lost in O.S.No.4 of 2012 has filed an interlocutory application in I.A.No.333 of 2021 in O.S.No.104 of 2013, under Section 10 of Civil Procedure Code, to stay the proceedings in O.S.No.104 of 2013, pending disposal of Special Leave Petitions in SLP Nos.924 and 925 of 2018, which were filed, as against the judgment and decree passed by this Court in A.S.No.200 of 2014 and 130 of 2016. It is also reported that these Special Leave Petitions are still pending before the Honourable Supreme Court. It is to be noted that the trial Court, while deciding the application in I.A.No.333 of 2021 in O.S.No.104 of 2013 has held that though the parties to the suits and the suit schedule properties are one and the same in both the suits, the issues framed to decide the suits are different. Moreover, examination of witnesses has also been commenced in O.S.No.104 of 2013. At this stage, the proceedings in O.S.No.104 of 2013 cannot be stayed on the ground that the Special Leave Petitions are pending



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before the Honourable Supreme Court. This Court is not inclined to interfere with the orders of the trial Court.

6. Accordingly, this Civil Revision Petition is dismissed at the admission stage itself. However, liberty is granted to the petitioner to work out his remedy in the Special Leave Petitions in SLP Nos.924 and 925 of 2018, which are pending before the Honourable Supreme Court. In the event, if the petitioner is succeeded in those Special Leave Petitions, he can restore his reliefs in his favour. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

The Additional District Munsif Court, Thanjavur.

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