



C.R.P(MD).No.914 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.914 of 2023

and

CMP(MD)No.4203 of 2023

N.Ashok

... Petitioner/Respondent

Vs.

C.Stella Sarojam

... Respondent/Petitioner

PRAYER:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 09.02.2023 passed in Tr.O.P.No.100 of 2021 on the file of the learned Principal District Judge, Kanyakumari District at Nagercoil.

For petitioner : Mr.M.P.Senthil

ORDER

This petition has been filed to set aside the fair and decreetal order passed in Tr.O.P.No.100 of 2021 on the file of the learned Principal District Judge, Kanyakumari District at Nagercoil, dated 09.02.2023.

2.The petitioner is the defendant before the Additional District Court, Padmanabhapuram, in O.S.No.156 of 2019 filed by the respondent herein. The respondent is also the mother of the petitioner.



3.The specific case of the petitioner is that the petitioner has already secured a judgment and decree in respect of the very same dispute before the Principal District Munsif Court, Padmanabhapuram in O.S.No.67 of 2019 on 24.02.2020 and that the respondent has also filed an appeal before the Sub Court, Padmanabhapuram in A.S.No.11 of 2020. The subsequent suit filed by the respondent in O.S.No.256 of 2019 is therefore liable to be dismissed.

4.That apart, it is submitted that under Section 11 of CPC second suit is also barred under law as the issue stands settled in favour of the plaintiff as earlier as 22.07.2011. That apart, it is also submitted that the petitioner has also moved an application before the Additional District Court, Padmanabhapuram, in I.A.No.1 of 2021 for rejecting the plaint under Order VII Rule 1 of CPC. It is submitted that the impugned order directing to transfer A.S.No.11 of 2020 on the file of the Sub Court, Padmanabhapuram to the Additional District Court, Padmanabhapuram for joint disposal with O.S.No.156 of 2019 was unjustified.

5.I have considered the argument advanced by the learned counsel for the petitioner.



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6.In my view, discretion executed by the Principal District Judge, Kanyakumari District at Nagercoil, vide impugned order dated 09.02.2023 in Tr.O.P.No.100 of 2021 has been properly under Section 24 of CPC.

7.In my view, no interference is called for in the impugned order dated 09.02.2023. At the same time, the petitioner has the legitimate point insofar as the application filed in I.A.No.1 of 2021 in O.S.No.156 of 2019 under Order VII Rule 11 of CPC. At the same time, priority be given to dispose I.A.No.1 of 2019 in O.S.No.156 of 2019 filed under Order VII Rule 11 of CPC by the petitioner and A.S.No.11 of 2020 is taken up for hearing.

8.The present Civil Revision Petition is disposed of by directing the Additional District Court, Padmanabhapuram to dispose I.A.No.1 of 2019 in O.S.No.156 of 2019 as and when the suit is renumbered and dispose the same on merits before trial in O.S.No.156 of 2019 and A.S.No.11 of 2020. No costs. Consequently, connected miscellaneous petitions is closed.

05.04.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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C.SARAVANAN,J.

dss

To

- 1.The Principal District Judge,
Kanyakumari District at Nagercoil.
- 2.Additional District Court,
Padmanabhapuram.
- 3.The Record Keeper,
V.R Section,
Madurai Bench of Madras High Court, Madurai.

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and

CMP(MD)No.4203 of 2023

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