



CRP(MD).No.639 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

CRP(MD).No.639 of 2023 and
CMP(MD).No.2947 of 2023

G. Vadivel

... Petitioner

-Vs-

1.N.Govindaraj
2.Dhanapal
3.Panchalai
4.Jayalakshmi
5.Rajasekaran
6.Nagendran

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order, dated 02.11.2022 rendered in Tr.O.P.No.363 of 2022 on the file of the learned Principal District Judge, Tiruchirappalli.

For Petitioner

: Mr.K.S. Kathiravan



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ORDER

This Civil Revision Petition has been filed against the fair and decreetal order, dated 02.11.2022 made in Tr.O.P.No.363 of 2022 on the file of the learned Principal District Judge, Tiruchirappalli.

2. By the impugned order dated 02.11.2022, the learned Principal District Judge, Tiruchirappalli, dismissed the said transfer original petition, holding that the parties and reliefs sought for in all the three suits, which are sought to be transferred, are not similar and that the suit in O.S.No. 1544 of 2002, on file of II Additional District Munsif, Tiruchirappalli, is at closing stage of evidence, based on the direction given by this Court in C.R.P.(MD)No.1242 of 2021.

3. The revision petitioner is the third defendant in the suit in O.S.No. 1544 of 2002, on the file of the II Additional District Munsif Court, Tiruchirappalli. The above said suit has been filed by the respondents 2 to 6 against the first respondent herein and one Ondiyapillai. The petitioner was subsequently impleaded as the third defendant as per the order passed in I.A.No.201 of 2009.



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4. A Civil Revision Petition in C.R.P.(MD)No.1242 of 2021 was filed by the respondents 2 to 6 herein, whereby this Court, by order dated 07.09.2021, directed the II Additional District Munsif, Tiruchirappalli to dispose the suit in O.S.No.1544 of 2002 within a period of six months from the date of receipt of a copy of the order.

5. The 1st respondent herein is the father of the petitioner. The first respondent herein and one Ondia Pillai have also filed a suit in O.S.No. 1591 of 2002, on the file of the II Additional District Munsif Court, Tiruchirappalli, against one Pappammal @ Kulandhayee @ Pappa. Pending suit, the defendant died and thereafter, her legal heirs were impleaded as defendants, who are neither parties to the suits in O.S.No. 1544 of 2002 and O.S.No.966 of 2022 nor in the present Civil Revision Petition. O.S.No.1591 of 2002 was dismissed for non-prosecution on 11.01.2023. The first respondent also filed another suit in O.S.No.966 of 2022 before the IV Additional Subordinate Court, Tiruchirappalli, against the 6th respondent herein viz., 1st plaintiff in O.S.No.1544 of 2002. The first respondent is the 1st defendant in the aforesaid suit.



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6. The specific case of the petitioner is that all the three suits are pursuant to the same property. It is submitted that the suit in O.S.No.1544 of 2002 has been filed for declaration and permanent injunction, whereas the suit in O.S.No.966 of 2022 and O.S.No.1591 of 2002 has been filed for permanent injunction. It is submitted that the Trial Court committed an error in dismissing Tr.O.P.No.363 of 2022 to transfer all the three suits in the one Court for joint trial.

7. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

8. There is no merit in this Civil Revision Petition. There is a direction of this Court in C.R.P.(MD)No.1242 of 2021 to complete the proceedings in O.S.No.1544 of 2002. The first respondent has filed O.S.No.966 of 2022, before the IV Additional Sub Court, Tiruchirappalli, in respect of the same property. O.S.No.966 of 2022 is clearly intended to delay proceedings and pronouncement of judgment in O.S.No.1544 of 2002. O.S.No.1591 of 2002, which was filed before the II Additional District Munsif Court, Tiruchirappalli, by the petitioner's father/first respondent herein and Ondia Pillai, has been dismissed for default.



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9. O.S.No.1544 of 2002 is pending for the past 21 years. Therefore, there is no justification for transferring O.S.No.1544 of 2022 to the IV Additional Sub Court, Tiruchirappalli, where O.S.No.966 of 2022 is pending. The learned Principal District Judge, Tiruchirappalli has rightly dismissed the application for transfer filed by the petitioner's father/first respondent herein. This Court is not, therefore, inclined to interfere with the order passed by the learned Principal District Judge, Tiruchirappalli.

10. In view of the above, the present Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

10.03.2023

Index : Yes / No
Internet : Yes/ No
trp

To

The Principal District Judge,
Tiruchirappalli.



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C.SARAVANAN, J.

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