



C.R.P(MD)No.2319 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **07.07.2023**

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.2319 of 2018
and
C.M.P(MD)No.10370 of 2018

K.Ramasamy

...Petitioner/Petitioner/
3rd Defendant

Vs.

1.Rajeswari

2.Selvarani

3.Indhirani

4.K.Balasubramanian

...Respondents 1 to 4/
Respondents 1 to 4/
Plaintiffs

5.G.Ramakrishnan

6.R.Venkatesan

...Respondents 5, 6/
Respondents 5, 6/
Defendants 1, 2

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 07.08.2018 made in I.A.No.136 of 2017 in O.S.No.434 of 2010 on the file of the Additional District Munsif Court, Karur.



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For Petitioner : Mr.R.Devaraj
For R1 to R3, R5, R6 : Ex parte in lower Court
For R4 : Mr.P.A.Athimoolapandian

ORDER

This civil revision petition has been filed against the order passed by the Additional District Munsif Court, Karur in I.A.No.136 of 2017 in O.S.No.434 of 2010 dated 07.08.2018.

2. The petitioner is the third defendant in the suit in O.S.No.434 of 2010. According to the petitioner, the suit is in respect of the property situated in S.F.No.290/C, Thanthoni Village. Except the suit in O.S.No. 434/2010, there are three other suits in O.S.No.26 of 2009, O.S.No.192 of 2012 and O.S.No.410 of 2012 in respect of the very same suit property.

3. The learned counsel for the petitioner submits that the issue in respect of the other suits was substantially similar to the issue in the suit in O.S.No.434 of 2010, and would also further submit that the parties in all the four suits are one and the same and the suit property is also the same.



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4. However, in all fairness, the learned counsel for the petitioner would fairly admit that except the suit in O.S.No.434 of 2010, the other suits are not for partition.

5. Therefore, very genesis for filing this application that the issues are directly and substantially in issue in other suits cannot be countenanced. Therefore, the very ground raised before the trial Court indubitably not within the contours of Section 10 of C.P.C. Though the learned trial Judge has dismissed the application on different grounds, has rightly affirmed that the cause of action of the suits is altogether different. In order to have an positive order under Section 10, the petitioner should establish before this Court that the prior suit is resjudicata to the subsequently instituted suit. This is not the case here. It is useful to refer the judgment of the Hon'ble Supreme Court reported in **(2013) 4 SCC 333 (Aspi Jal and others Vs khushroo Rustom Dadyburjor)**. Therefore, this Court does not find any manifest error in the trial Court order so as to interfere with the same.



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6. In the result, the present Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

07.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Additional District Munsif Court,
Karur.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

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