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C.R.P.(MD)No.2199 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.2199 of 2023
and
C.M.P.(MD)No.11193 of 2023

1.Chandra

2.Nagalingam

3.Saroja : Petitioners/Petitioners /Defendants 1, 3 & 4

Vs.

1.Vijayalakshmi @ Vijaya : 1st Respondent/1st Respondent/Plaintiff

2.Nagavalli : 2nd Respondent/2nd Respondent/
2nd Defendant

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order made in I.A.No.3 of 2023 in O.S.No.242 of 2016 on the file of the Additional District Munsif, Lalgudi, dated 11.07.2023.

For Petitioners : Mr.R.Sundar

ORDER

The Civil Revision Petition is directed against the order passed in

I.A.No.3 of 2023 in O.S.No.242 of 2016, dated 11.07.2023 on the file of



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the Additional District Munsif, Lalgudi, dismissing the petition filed under Section 10 of C.P.C.

2. The learned counsel for the petitioners would submit that the first respondent/plaintiff has earlier filed a suit in O.S.No.1 of 2016, claiming permanent injunction alleging that her father has executed a registered settlement deed, dated 21.08.2009 in favour of his daughters including the first respondent/plaintiff; that subsequently, she has filed another suit in O.S.No.242 of 2016 claiming partition of alleged joint family properties and that since the main issue in both the suit is with regard to the settlement deed, dated 21.08.2009, the revision petitioners were constrained to file the present application, seeking orders to stay the trial of the suit in O.S.No.242 of 2016.

3. The learned counsel for the petitioners would further submit that the learned trial Judge by observing that the reliefs claimed in the both suits are different, dismissed the petition.

4. But the learned trial Judge, by specifically observing that the matter in issue in the suit in O.S.No.1 of 2016 to be decided is only the possession of the parties, but in the present suit, the issue to be decided is



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that whether the suit properties are the ancestral properties and they are entitled to partition; that the matter in issue in both the suits are different and that the above petition came to be filed only to protract the proceedings, has rightly dismissed the petition.

5. At this juncture, the learned counsel for the petitioners would submit that the petitioners may be given liberty to move for transfer of both the cases to the same Court for having joint trial.

6. Considering the above, the impugned order dismissing the petition filed under Section 10 of C.P.C., cannot be found fault with.

7. In the result, the Civil Revision Petition is dismissed. The petitioners are at liberty to move the appropriate Court for transferring both the cases to the same Court for joint trial. No costs. Consequently, connected Miscellaneous Petition is closed.

07.12.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
das



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To

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



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K.MURALI SHANKAR,J.

das

Order made in
C.R.P.(MD)No.2199 of 2023
and
C.M.P.(MD)No.11193 of 2023

Dated : 07.12.2023