



CRP(MD)No.43 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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M.a.Ganesan

... Petitioner

versus

A.Mohan

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair order dated 11.08.2022 made in I.A.No.01 of 2022 in O.S.No.212 of 2019 on the file of the Sub Court, Manamadurai.

For Petitioner : Mr.D.Senthil

ORDER

This Civil Revision Petition is filed as against the fair and decreetal order passed by the learned Sub Judge, Manamadurai in I.A.No.01 of 2022 in O.S.No.212 of 2019, dated 11.08.2022.



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2. The petitioner is the plaintiff in O.S.No.212 of 2019 and he filed the above suit for partition as against one Mohan with regard to 98 cents of land and he has also filed another suit for partition in O.S.No.325 of 2019 as against his mother and other brothers with regard to the remaining properties that those properties are ancestral properties. Now, this petitioner has filed the above I.A.No.1 of 2022 in O.S.No.212 of 2019 seeking permission of the trial Court to withdraw the suit in O.S.No.212 of 2019, which was filed as against Mohan alone for the relief of partition and that the said Mohan is also a party in O.S.No.325 of 2019, which was filed for the same relief. The trial Court dismissed the application stating that the cause of action in both the suits are different and also considering the stage of the suits. Aggrieved over the same, the present revision petition is filed.

3. This Court considered the submission of the learned counsel for the petitioner and also perused the materials placed on record.

4. As rightly pointed out by the trial Court, the cause of action in both the suits are different. With regard to suit in O.S.No. 212 of 2019, the



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petitioner as a plaintiff has claimed the relief of partition as against one Mohan with regard to 98 cents of land alone. It is to be noted that the said property belongs to both Mohan and the petitioner/plaintiff. He also filed another suit in O.S.No.325 of 2019 for partition as against the petitioner's mother and other brothers with regard to the remaining properties that both the properties are ancestral properties. Moreover, the pleadings have been completed in both the suits. The present suit in O.S.No.212 of 2019 is at the stage of defendant's side evidence.

5. In view of the above, there is no reason to interfere with the order of the trial Court. Accordingly, this Civil Revision Petition is dismissed. However, considering the fact that the suit is of the year 2019, there shall be a direction to the learned Sub Judge, Manamadurai, to complete the proceedings in O.S.No.212 of 2019 as expeditiously possible. No costs. Consequently, connected miscellaneous petition is closed.

30.01.2023

NCC : Yes/ No
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B.PUGALENDHI, J.

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To

The Subordinate Judge,
Manamadurai.

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