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CRP No.915 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

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CMP No.4569 of 2024

Arul, present Manager, RISID Finances,
No.839, Perumal Koil Street, Kolavi Medu Village,
Palli Madura, Cheyyar Division,
Cheyyar, Tiruvannamalai District.

bearing office at presently No.48/1, Kasikara Theru,
Cheyyar Division, Tiruvannamalai District,
Reg. Address No.159/1A, Sri Vidya Apartments,
Thamirabarani Theru, Pazhaniyappa Nagar,
Valasaravakkam, Chennai 600 087.

... Petitioner

Vs.

Puvitharani

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order made in Tr.OP No.1/2023 dated 21.11.2023, on the file of the Principal District Court, Thiruvannamalai.

For Petitioner

: Mr.A.Anbharasu



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ORDER

This Civil Revision Petition has been filed to set aside the order made in Tr.OP No.1/2023 dated 21.11.2023, by the learned Principal District Judge, Thiruvannamalai.

2. The petitioner herein is the plaintiff and the respondent herein is the defendant in the suit in O.S.No.45/2019 on the file of Sub Court, Cheyyar. Pending suit, the respondent/defendant has filed the above transfer petition before the District Judge, Tiruvannamalai to withdraw the above suit from the file of the Sub Court, Cheyyar and transfer the same to the Additional Court, Arni for trial and disposal along with the suit in O.S.No.10/2018, pending on its file. The above petition was allowed on the ground that the parties in both the suits are one and the same and the transaction of money and the defence taken in both the suits are based on the same documents. The above impugned order is challenged before this court.

3. The learned counsel for the petitioner submitted that, there arose a



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different causes of action on different dates for filing both the suits in O.S.No.45/2019 and O.S.No.10/2018. He further submitted that, in O.S.No.45/2019, a sum of Rs.5,00,000/- was borrowed by the respondent on 20.02.2016 by executing promissory notes, whereas, in O.S.No.10/2018, the respondent had obtained a loan of Rs.10,00,000/- from the petitioner by mortgaging his property on 16.02.2016. Further, based on the suit claim, the pecuniary jurisdiction of the Courts is also differed. Therefore, it is not proper to transfer the O.S.No.45/2019 to the file of Additional Court, Arani to dispose the above suit along with O.S.No.10/2018.

4. Heard the learned counsel for the petitioner and I have perused the materials on record.

5. On perusal of the records, the facts reveals that the petitioner has filed the suit in O.S.No.45/2019 before the Subordinate Judge, Cheyyar, against the respondent/defendant claiming a sum of Rs.5,00,000/- along with interest, based on the promissory note executed on 20.02.2016. Before



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filing the above suit, the petitioner has filed another suit in O.S.No.10/2018 before the Additional District Judge, Arni against the same defendant for recovery of a sum of Rs.14,60,000/- along with subsequent interest, based on the equitable mortgage deed executed in favour of him by the respondent/defendant herein. In such circumstances, the respondent filed Tr.OP No.1/2023 to transfer the O.S.No.45/2019 from Sub Court, Cheyyar to the Additional District Court, Arni, to dispose the case along with O.S.No.10/2018, pending on its file.

6. It is the contention of the petitioner that, the cause of action arose on different dates for filing the above suits and the pecuniary jurisdiction of the courts is also differed, based on the suit claim. At this juncture, it is relevant to extract Order II Rule 3 of CPC, which run as follows.

3. Who may be joined as defendants. All persons may be joined in one suit as defendants where-

- a. any right to relief in respect of, or arising out of, the same act or transaction or series of acts or transactions is alleged to exist against such persons, whether jointly, severally or in the alternative; and
- b) if separate suits were brought against such persons, any



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common question of law or fact would arise.

In the above said cases, parties are one and the same. Though in both the suits, cause of action arose on different dates, the same were arose against the same defendant with regard to recovery of money and the defendant has raised the same defence in both the suits. Hence, both the suits can be tried jointly. Further, all the grounds raised by the petitioner were considered and the learned Judge has passed a well reasoning order and I do not find any infirmity to interfere over the same. Hence, the civil revision petition is liable to be dismissed, as it has no merits.

7. Accordingly, the civil revision petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Internet: Yes/No
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To
The Principal District Judge, Tiruvannamalai.



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V.SIVAGNANAM, J.,

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