



WEB COPY

CRP.NPD. No.2909 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE P.B.BALAJI

CRP. NPD. No.2909 of 2022
& CMP. Nos.15808 & 15809 of 2022

G.Saravanan

... Petitioner

Vs

1.G.Jagadeesan
G.Sundaram (died)
2.S.Valarmathi
3.S.Gowri
4.S.Karthi
(respondents 2 to 4 remained exparte
in the lower Court, hence notice to
respondents 2 to 4 may be dispensed with)

... Respondents

Prayer: The Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the impugned fair and decreetal order dated 05.01.2022 passed in Tr.O.P. No.55 of 2020 on the file of the Principal District Judge, Salem.

For Petitioner : Ms.J.Prithivi

For Respondents : Mr.S.J.Nakkheeran for
M/S.Nortan & Grant for R1



WEB COPY

CRP.NPD. No.2909 of 2022



ORDER

The plaintiff in O.S. No.432 of 2017 is the revision petitioner. The present Civil Revision Petition has been filed, challenging the order of dismissal of the Transfer Application in Tr.O.P No.55 of 2020 dated 05.01.2022.

2. I have heard Ms.J.Prithivi learned counsel for the petitioner and Mr.S.J.Nakkheeran, learned counsel for the first respondent.

3. The contention of the learned counsel for the revision petitioner is that the preliminary decree came to be passed in O.S. No.618 of 1999 on the file of the learned Principal Subordinate Judge, Salem was behind the back of the revision petitioner and only when the revision petitioner received notice in the final decree proceedings, he came to know about the passing of the preliminary decree in O.S. No.618 of 1999. Immediately, the petitioner has filed suit in O.S. No.432 of 2017 for setting aside the preliminary decree passed in O.S. No.618 of 1999. The said suit is pending before the First Additional District Munsif Court, Salem. She would therefore submit that both the matters have to be tried



together and the learned Principal District Judge, Salem has erroneously dismissed the Transfer Original Petition on the ground that the said Transfer Original Petition if ordered, would cause prejudice to the respondents and there are avenues for the revision petitioner to challenge the preliminary decree even in the final decree proceedings.

4. Per contra, the learned counsel for the first respondent would submit that the final decree is in the stage of enquiry and in the suit trial is yet to commence and therefore, it would only lead to inconvenience to both the parties if the cases are tried together. He would therefore prayed for dismissal of the Civil Revision Petition.

5. Having heard the learned counsel on either side, I am of the view that since the preliminary decree itself is challenged in O.S. No.432 of 2017, final decision in the said suit should precede further proceedings in the final decree, as otherwise it may lead to conflicting judgments and also multiply litigation between the parties. Considering the interests of justice and also in order to not cause any prejudice to both the parties, the suit in O.S. No.432 of 2017 shall be transferred to the file of the Principal Subordinate Judge, Salem to be taken up along with I.A. No.36 of 2016

**P.B.BALAJI, J.**

rkp

in O.S. No.618 of 1999. The learned Principal Sub Judge, Salem shall take up the Transfer Suit in O.S. No.432 of 2017 on priority basis and dispose of the same within a period of six months from the date of receipt of the records from the I Additional District Munsif, Salem. The Principal Sub Judge, Salem is at liberty to simultaneously proceed with the final decree Application until the stage of passing of final decree and depending on the outcome of the suit in O.S.No.432 of 2017, a final decree can be passed accordingly.

6. Accordingly, the Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

04.10.2024

Index:Yes/No

Speaking order/Non-speaking order

rkp

To

- 1.The Principal District Judge, Salem.
- 2.The Principal Subordinate Court, Salem.
- 3.The I Additional District Munsif Court, Salem.
- 4.The Section Officer,VR Section, Madras High Court, Chennai.

CRP. NPD. No.2909 of 2022
& CMP. Nos.15808 & 15809 of 2022