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C.R.P. No. 3014 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P. No. 3014 of 2021

and

C.M.P. No. 21400 of 2021

M.K. Murthy (died)

1.M. Jayakumar
2.M. Chamundeeswari
3.M. Manigandan
4.M. Gouthami
5.M. Padmini

... Petitioners

Vs.

1.Mahadevan
2.Prasanth Kannan

... Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decree dated 05.04.2021 made in I.A. No. 2 of 2019 in O.S. No. 434 of 2007 passed by the District Munsiff Court, Ambattur.

For Petitioners : Ms. K. Sindhuja
For Respondents : Mr. P. Raja for R1
G. Prakash for R2



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ORDER

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The Civil Revision Petition has been filed against the order dated 05.04.2021 in I.A. No.2 of 2019 in O.S. No. 434 of 2007 on the file of District Munsif Court, Ambattur.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondents and perused the record.

3. The petitioners are the plaintiffs and first respondent is the defendant in the suit which is filed for the relief of bare injunction.

4. It is the case of the petitioners that they are the absolute owners of the suit property and the defendant is a land grabber attempted to trespass into the suit property. After filing written statement, the petitioners came to know that the respondent is the power agent of one Prasanth Kannan and he purchased the suit property from Narasinga Prasad and others under the sale deed dated 20.11.2005. Hence, the petitioners filed a petition in I.A. No. 2 of 2019 in O.S. No. 434 of 2007 seeking to implead the principal of the



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defendant as second defendant. The defendant resisted the petition stating that the written statement was filed in the year 2008 and the suit is posed for list of conducting the trial. It is further contended that there are no bonafide reasons are stated to implead the principal of the defendant as second defendant. The trial Court, by its order dated 05.04.2021 dismissed the petition filed to implead the principal of the defendant as second defendant.

5. While dismissing the said application, the trial Court is of the opinion that there is no reason disclosed in the petition why the instant application filed after the lapse of ten years and as such, the trial Court came to the conclusion that without disclosing any valid reason to implead the principal of the defendant after lapse of ten years, the instant application is not maintainable and it is mere dragging the proceedings of the matter.

6. This Court is unable to accept with the opinion of the trial Court. Admittedly, the suit in O.S. No. 434 of 2007 was filed by the petitioners/ plaintiffs. If suit proceedings are dragged by filing such type of petitions, the petitioners have to suffer. It is clearly stated in the affidavit filed along with



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the petition that after filing of written statement only, the petitioners came to know about the principal of the defendant. But the defendant contending that the written statement was filed in the year 2008 and the present application was filed after ten years.

7. Learned counsel for the respondents contend that the proposed second defendant herein has already filed a suit in O.S. No. 426 of 2010 on the file of the District Munsif at Ambattur against the petitioners herein and it is pending for trial.

8. Considering the above factual position, in the considered opinion of this Court, it is appropriate to direct the District Munsif Court, Ambattur to conduct joint trial in both the suits to avoid conflicting judgments.

9. This Court is of the view that by impleading the proposed second defendant as defendant No.2 in O.S. No. 434 of 2007, no prejudice will be caused. They can raise all their objections and put forth their case before the trial Court for proper adjudication of the case.



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10. In view of the above discussion, the Civil Revision Petition is disposed of with the following direction: -

(i) The order dated 05.04.2021 in I.A. No. 2 of 2019 in O.S. No. 434 of 2007 is set aside.

(ii) The proposed second defendant shall be impleaded as defendant No. 2 in O.S. No. 434 of 2007.

(iii) The District Munsif at Ambattur shall conduct joint trial in O.S. No. 434 of 2007 and O.S. No. 426 of 2010 on its file and it shall be disposed of in view of the fact that the suits are pertaining to the years 2007 and 2010.

(iv) The trial Court shall dispose of the same as expeditiously as possible preferably within a period of four months from the date of receipt of copy of this order.

(v) Both parties shall cooperate with the trial Court for expeditious disposal.



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WEB COPY 11. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

22.07.2024

Index : Yes / No

Neutral Citation : Yes / No

AT

Note : Issue order copy within three days

To
The District Munsif Court, Ambattur.



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BATTU DEVANAND, J.

AT

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