



WEB COPY



C.R.P.No.3523 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.3523 of 2019

Aramudhan

... Petitioner

-Vs-

1.H.Sarbunisha
2.Y.H.Riyavul Farshana
3.Y.H.Fahima Shabana
4.Y.S.Haliloor Rahman
5.Y.S.Hidhayathulla
6.Haja Kamaludeen
7.Mehrunnisha
8.Raja Punnisha
9.Mumtaj Begum
W/o Y.S.Shamsudeen Rawtar
10.Mumtaj Begum
W/o T.A.Nazeer Mohammed

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the docket order passed in unnumbered I.A.No.....of 2019 in O.S.No.41 of 2011 on the file of the Sub Judge, Mannargudi dated 24.04.2019.

For Petitioner : Mr.Ranjith Kumar

For Respondents : Mr.T.Sezhian
for Respondents 1 to 3
Mr.B.Jawahar - for R4
RR 6, 7 ad 9 - Served, no appearance
RR 2,5,8 and 10 - Not ready in notice



C.R.P.No.3523 of 2019

ORDER

WEB COPY

This Civil Revision Petition arises against the order passed by the learned Subordinate Judge at Mannargudi in I.A.SR.No.2820 of 2019 in O.S.No.41 of 2011, dismissing the petition filed under Section 10 of the Civil Procedure Code.

2. I heard Mr.J.Ranjith Kumar for the petitioner, Mr.T.Sezhian for the respondents 1 to 3 and Mr.Jawahar for the fourth respondent.

3. There are two suits which are pending before the learned Subordinate Judge at Mannargudi. O.S.No.25 of 2011 is a suit for mere declaration, without any consequential relief, that the settlement deed executed by the father of the plaintiff in favour of the first defendant is null and void. Two months after the presentation of the suit, another suit seeking partition was presented in O.S.No.41 of 2011 arraying the first defendant in the previous suit as the first defendant in this suit and arraying the plaintiffs in O.S.No.25 of 2011 as defendants 3 to 6 in O.S.No.41 of 2011.

4. Written statements were filed and the parties proceeded for trial. The evidence in O.S.No.41 of 2011 had been completed. At that stage, the 8th defendant in O.S.No.41 of 2011 filed an application for stay of further proceedings in the suit till the disposal of O.S.No.25 of 2011. This is because, if the Court were



C.R.P.No.3523 of 2019

to come to a conclusion that the settlement deed executed in favour of the first defendant therein, is null and void, automatically the property would lie exposed for a decree for partition in O.S.No.41 of 2011. The 8th defendant waited till the evidence was completed and thereafter presented the said application. The learned trial Judge, after considering the stage of the suit, by an order dated 24.04.2019, dismissed the said petition. Hence, the revision.

5. The facts narrated above shows that the evidence in O.S.No.41 of 2011 had already been completed when the application for stay had been presented. Under Section 10 of the Civil Procedure Code, a Court cannot proceed with the **trial** in any suit in which the issue is directly or substantially in issue in a previously instituted suit. Once the trial is completed, the question of granting stay in the said proceedings does not arise. Therefore, I do not find any reason to take a different view than the view taken by the learned Subordinate Judge, Mannargudi in the impugned order.

6. Mr.Sezhian brings to my notice that the suit in O.S.No.25 of 2011 and O.S.No.41 of 2011 proceeded for trial simultaneously. He states that on account of the pendency of O.S.No.25 of 2011, the learned Subordinate Judge has been adjourning O.S.No.41 of 2011 for arguments and the defendants are yet to complete the evidence in O.S.No.25 of 2011.



C.R.P.No.3523 of 2019

WEB COPY

7. When a suit is pending for more than 13 years, that itself should have triggered the learned trial Judge to dispose of the suit expeditiously. Mr.Jawahar who appears for the first defendant assures this Court that the first defendant would cooperate for expeditious disposal of the suit. Considering the fact that in one suit evidence is already over and in the other suit, it is only awaiting the evidence on the side of the defendants, there shall be a direction to the learned Subordinate Judge, Mannargudi to complete the evidence in O.S.No.25 of 2011 by **31.01.2025**. He shall enter upon judgment in both O.S.Nos.25 of 2011 and 41 of 2011 on or before **31.03.2025**. He shall submit a report in compliance of the disposal to this Court.

8. With the above directions, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.11.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

The Subordinate Judge
Mannargudi.



WEB COPY



C.R.P.No.3523 of 2019

V. LAKSHMINARAYANAN, J.

KST

C.R.P. No.3523 of 2019

20.11.2024