



C.R.P.(PD)No.4561 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.11.2024**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.4561 of 2024
and CMP Nos.25402 and 25403 of 2024

Rangesan

... Petitioner

VS

1. Jayavel
2. Srinivasan
3. Prabavathi
4. Mohan
5. Balaji
6. Siddeshkumar
7. S.Sukumaran
8. Rajeshkumar
9. Sekar
10. Raja
11. Palani
12. V.Govindhasamy
13. Rajalakshmi
14. Premakumari

.... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 10.09.2024 in Tr.O.P.No.91 of 2023 on the file of Principal District Judge, Dharmapuri.



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For Petitioner : Mr.R.Rajaramani

For Respondents : Mr.P.M.Jayachandran

ORDER

This Civil Revision Petition challenges the order of learned Principal District Judge, Dharmapuri in Tr.O.P.No.91 of 2023 dated 10.09.2024.

2. I heard Mr.R.Rajaramani for Mr.V.R.Annagandhi for the civil revision petitioner and Mr.P.M.Jayachandran for the respondents.

3. The civil revision petitioner wanted to try O.S.Nos.154 of 2011 and 134 of 2012 pending on the file of Additional Subordinate Judge, Dharmapuri along with O.S.No.177 of 2023 pending on the file of Principal District Judge, Dharmapuri.

4. All the three suits seek for partition and separate possession. The petitioner wants the first two suits viz., O.S.No.154 of 2011 and 134 of 2012 to be transferred to be tried along with the third suit viz., O.S.No.177 of 2023,



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which has been presented in the year 2023. The first two suits have been pending for 13 years and 12 years respectively.

5. It is not in dispute that both the suits are part-heard, whereas, in the newly presented suit O.S.No.177 of 2023, the proceedings are yet to see the completion of pleadings. If I were to agree with Mr.R.Rajaramani to transfer those suits, I will only be delaying the proceedings in suits which have been pending for more than a decade. That would certainly not be in the interest of the parties.

6. Further, Mr.P.M.Jayachandran submits that first two suits relate to the properties belonging to the mother, whereas, the subsequent suit relates to the properties that have been left behind by the father. The mere fact that the parties are same, does not mean that the suits have to be tried together, when the causes of action are different.

7. In a partition suit, the day on which the succession opens, would be relevant. It is not the case of either parties that the succession opened in all the



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three suits are on the same day. In any event, by the decree passed in the first two suits, it will not affect the decree passed in the third suit since the succession is through the father.

8. I do not find any commonality of issues. Furthermore, the plaintiff in O.S.No.177 of 2023 waited for nearly a decade and more and only thereafter presented the suit.

9. In the light of the above discussions, I do not find any reason to take a different view than that taken by the learned Principal District Judge, Dharmapuri. The Civil Revision Petition is dismissed and the order passed by the learned District Judge, Dharmapuri in Tr.O.P.No.91 of 2023 dated 10.09.2024 stands confirmed.

10. The learned Subordinate Judge, Dharmapuri is requested to take note of the fact that O.S.Nos.154 of 2011 and 134 of 2012 have been pending for more than 10 years. This by itself should have triggered the learned Subordinate Judge to give priority to the said proceedings. There shall be a direction to the



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learned Additional Subordinate Judge, Dharmapuri to dispose of O.S.Nos.154 of 2011 and 134 of 2012 within a period of four months from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petitions are closed.

18.11.2024

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

sr

To

1. The Principal District Judge, Dharmapuri.
2. The Subordinate Judge, Dharmapuri



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V.LAKSHMINARAYANAN,J.,

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