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C.R.P.No.3401 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.3401 of 2024
and C.M.P.No.18390 of 2024

Nallammal

... Petitioner

Vs

1. Saravanan

2. Kamatchiammal

3. Ponnammal

4. Susheela

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, pleased to set aside the order dated 17.04.2023 made in Tr.O.P.No.48 of 2022 on the file of the learned Principal District Judge, Namakkal.

For Petitioner : Mr.B.Mohan

ORDER

This Civil Revision Petition has been filed against the order passed by the learned Principal District Judge, Namakkal, on 17.04.2023 in Tr.O.P.No.48 of 2022.



C.R.P.No.3401 of 2024

WEB COPY

2. The petitioner is the plaintiff in the suit filed in O.S.No.112 of 2014 before the Sub Court, Namakkal seeking for partition (later re-numbered as O.S.No.312 of 2018 on the file of the Sub Court, Paramathy) was dismissed on 15.11.2019. Aggrieved against the same, the petitioner has preferred an appeal in A.S.No.49 of 2021, which is now pending on the file of the Special Court for trial of Cases under SC/SC (PoA) Act, Namakkal. Further, the petitioner is the first defendant in the suit filed by the first respondent herein in O.S.No.97 of 2014 on the file of the District Munsif Court, Paramathy, seeking for a partition against the petitioner and others. The suit was decreed on 13.09.2021, against which, the petitioner/first defendant had preferred an Appeal in A.S.No.5 of 2022 and it is also pending on the file of the Subordinate Court, Paramathy.

3. Thereafter, the petitioner has filed a petition in Tr.O.P.No.48 of 2022 before the learned District Judge, Namakkal, under Section 24 of the CPC, contending that the parties to both appeal proceedings are same, the fact in issue regarding both the appeal are related to the interest of the same parties and since both the parties are one and the same, he prayed that both the Appeals may be



C.R.P.No.3401 of 2024

WEB COPY
tried together. The respondents have filed a counter and stated that the case property in both the appeals are different and the issues that are to be determined in both the cases are also different and thereby, sought for dismissal of the petition. The learned Principal District Judge, Namakkal, holding that the subject matter of the immovable property therein are different and also finding that the petitioner has not taken steps for joint or simultaneous trial when the suit under appeals are pending before the trial Courts and the petition has been filed only at the appeal stage, has dismissed the petition. Aggrieved over the same, this present revision petition has been filed by the petitioner.

4. Learned counsel for the petitioner submitted that the parties to both the appeal proceedings are one and the same and the fact in issue regarding both the appeals are related to interest of the same parties. Hence, he prayed to set aside the impugned order dated 17.04.2023.

5. Heard the learned counsel for the petitioner and perused the materials available on record.



C.R.P.No.3401 of 2024

6. On perusal of records, it is seen that the parties in the both the appeals are different and the issue involved therein is also different. Further, the order in Tr.O.P.No.48 of 2022 has been passed as early as on 17.04.2023 and the petitioner has not taken any steps to bring the revision petition at the earliest. From the case status, this Court able to see that the Appeal in A.S.No.49 of 2021 is pending for arguments from 07.02.2022 and the petitioner has been taking time. Further, taking note of the fact that the petition for transfer has been filed much belatedly and on seeing the conduct of the petitioner, this Court is of the view that the petition has been filed only with a view to delay the disposal of the appeals. Hence, this Court does not find any merits in this case.

7. Accordingly, the Civil Revision Petition stands dismissed. Conquently, the connected Civil Miscellaneous Petition is also closed. No costs.

27.08.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

The Principal District Judge, Namakkal.



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C.R.P.No.3401 of 2024

A.D.JAGADISH CHANDIRA, J.
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