



C.R.P.(MD)No.1237 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.09.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1237 of 2024

and

C.M.P.(MD)No.7120 of 2024

Rajakumar

... Petitioner / Petitioner / Defendant

Vs.

G.Gnanajeyam

... Respondent / Respondent / Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 25.07.2023 made in I.A.No. 5 of 2022 in O.S.No.169 of 2014 on the file of the Court of Subordinate Judge, Tuticorin.

For Petitioner : Mr.V.Meenakshi Sundaram

For Respondent : Mr.A.Mohan

ORDER

Heard both sides.



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2. The defendant in O.S.No.169 of 2014 on the file of the Sub Court, Thoothukudi is the revision petitioner herein. The defendant filed I.A.No.5 of 2022 under Section 10 of C.P.C for staying the suit proceedings. IA was dismissed vide order dated 25.07.2023. Questioning the same, this civil revision petition came to be filed.

3. Even according to the revision petitioner herein, O.S.No.169 of 2014 was the first instituted suit. O.S.No.44 of 2014 filed by the revision petitioner before the first Additional District Judge, Thoothukudi was the subsequently instituted suit. Section 10 of C.P.C contemplates only staying the subsequently instituted suit. Therefore, I.A.No.5 of 2022 was rightly dismissed. I wondered if O.S.No.169 of 2014 could be transferred from the file of the Sub Court, Thoothukudi and posted before the first Additional District Judge, Thoothukudi for simultaneous and joint trial with O.S.No.44 of 2014. It is fairly stated by the revision petitioner's counsel that when a transfer petition was filed earlier, it was dismissed and that the said order does not appear to have been challenged. While O.S.No.169 of 2014 is for redemption of mortgage and return of the document, O.S.No.44 of 2014 is for recovery of money on the strength of the mortgage as well as pro note.



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4. I am more than satisfied that the outcome of O.S.No.169 of 2014 will not cast any cloud on O.S.No.44 of 2014. O.S.No.44 of 2014 can independently be prosecuted to its logical conclusion. With the aforesaid observation, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
rmi

To:

The Subordinate Judge, Tuticorin.



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G.R.SWAMINATHAN, J.

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