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C.R.P.(MD)No.1448 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.1448 of 2024 and
C.M.P.(MD)No.8567 of 2024

1. K.Paramasivam
2. P.Padmini
3. P.Priya
4. P.Nathiya

... Petitioners/Petitioners

Vs.

1. K.Kalyanasundaram
2. Rengarajan
3. Balaji
4. S.Gnanambal
5. Amsavalli

... Respondents/Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed by the learned Principal District Judge, Tiruchirappalli in Transfer O.P.No.352 of 2022 dated 18.01.2024 by allowing this revision petition.

For Petitioners : Mr.S.K.Mani



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ORDER

Heard the learned counsel appearing for the revision petitioner.

2. Though the respondents have been served, they have not chosen to enter appearance.

3. The revision petitioners 1 and 2 herein filed O.S.No.691 of 2012 on the file of the I Sub Court, Trichy seeking the relief of partition and separate possession of the suit schedule properties.

4. The revision petitioners herein filed O.S.No.460 of 2014 on the file of the very same Court seeking permanent injunction in respect of the properties described as “A”schedule in O.S.No.691 of 2012. The third defendant in O.S.No.460 of 2014 filed O.S.No.24 of 2019 against the first petitioner herein for recovery possession in respect of the property described as “A”schedule in O.S.No.691 of 2012. That suit was filed before the District Court, Tiruchirappalli. The petitioner herein filed Tr.O.P.No.352 of 2022 for withdrawing the suits instituted before the



I Sub Court and for taking it up along with O.S.No.24 of 2019. The said Tr.O.P. was dismissed vide order dated 18.01.2024. Questioning the same, this civil revision petition came to be filed.

5. It is seen that the reasons given by the Court below for dismissing Tr.O.P. was that the description of the property in O.S.No.691 of 2012 and the property described in O.S.No.24 of 2019 are not similar. This reason is incorrect. O.S.No.691 of 2012 encompassed three schedules of properties. O.S.No.24/2019 is in respect of the first schedule of property. Therefore, that is a clear overlapping between the two suits. In this view of the matter, the impugned order is set aside. The Principal District Judge, Trichy is directed to withdraw O.S.No.691 of 2012 as well as O.S.No.460 of 2014 from the file of the I Sub Court, Trichy and take it on its file and deal with them simultaneously. This civil revision petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

11.09.2024

Index : yes/No
Internet: Yes/No
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C.R.P.(MD)No.1448 of 2024

G.R.SWAMINATHAN,J.

PMU

To

The Principal District Judge,
Tiruchirappalli.

C.R.P.(MD).No.1448 of 2024

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