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CRP(PD).No.1643 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).No.1643 of 2025

and

CMP.No. 9530 of 2025

K.Deepalakshmi

... Petitioner

Vs.

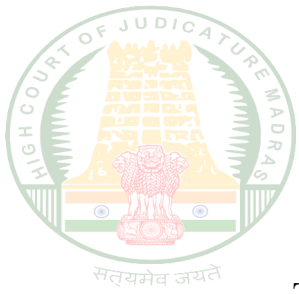
1.K. Prem Anand

2.Mythili

... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in IA.No.4 of 2021 in OS.No.1564 of 2021 dated 09.01.2024 on the file of the VI Additional City Civil Court at Chennai.

For Petitioner : M/s.R.Jayaprakash



ORDER

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The plaintiff invoking the jurisdiction of this Court under Article 227 of the Constitution of India seeks to challenge the order passed in IA.No.4 of 2021 in OS.No.1564/2021 in and by which the learned VI Additional Judge City Civil Court, Chennai has stayed the proceedings in suit OS.No.1564 of 2021 under the provisions of Section 10 of CPC.

2. The plaintiff had filed suit OS.No.1564 of 2021 on the file of the above Court seeking the relief of partition of her 1/3 share in the suit property and for mesne profit.

3. The 2nd defendant had taken out an IA.No.4 of 2021 seeking to stay the proceedings in OS.No.1564 of 2021 under Section 10 of CPC.

4. In the affidavit filed in support of the said application, the 2nd defendant would submit that the plaintiff has come to Court suppressing the fact that already a suit for partition is pending before



this Court in C.S.No.290 of 2016, which also involves the properties that are the subject matter of the instant suit.

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5. It is his case that the suit C.S.No.290 of 2016 was filed for partition by the plaintiff's father's younger brother, C.T.Sathyamurthy and his son C.S.Vinodh Khanna. The plaintiff in the instant suit is the 4th defendant in the partition suit in CS.No.290/2016. The suit CS.No.290 of 2016 has been filed in respect of four items of properties described as schedule A to D.

6. The 2nd defendant would further submit that in the suit OS.No.290 of 2016 there is already an order of injunction dated 03.06.2016 in operation and suppressing the said proceedings, the instant suit has been filed and since the subject matter and parties are one and the same, the 2nd defendant had sought to stay the instant suit proceedings.

7. The plaintiff had filed a counter inter alia contending that she



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is entitled to a 1/3rd share in the suit property and also to the income which is being illegally received by the 2nd defendant. She would further submit that all the parties in C.S.No.290 of 2016 are not the parties to the suit OS.No.1564 of 2021. She would further contend that in the instant suit she has also sought for partition in respect of her share in the two items of the property, whereas, in C.S.No.290 of 2016, there are several other reliefs that are claimed for. Therefore, she would seek to have IA.No.4 of 2021 dismissed.

8. The learned VI Additional District Judge, Chennai by is order dated 26.10.2022 was pleased to allow the application and stayed the proceedings in OS.No.1564 of 2021. Challenging the same, the petitioner is before this Court.

9. Heard the counsel for the petitioner and perused the records.

10. The instant suit (OS.No.1564/2021) is filed for partition of the petitioner's/plaintiff's 1/3rd share in the suit properties (two items). C.S.No.290/2016 has also been filed for a partition in respect of

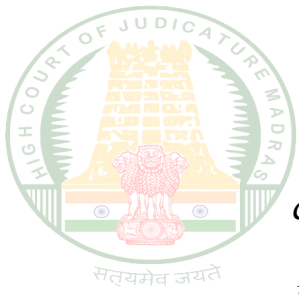


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several properties including the properties which is the subject matter of OS.No.1564/2021. The 1st item of the property which is described in the suit OS.No.1564/2021 is the C schedule property in the suit C.S.No.290 of 2016 and the 2nd item of property in the suit OS.No.1564/2021 is described as D schedule property in the suit C.S.No.290 of 2016. The plaintiff is the 4th defendant in the suit C.S.No.290 of 2016.

11. Section 10 of CPC would read as follows:-

“10. Stay of suit.—No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in [India] have jurisdiction to grant the relief claimed, or in any Court beyond the limits of [India] established or



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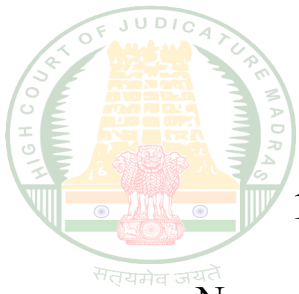
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*continued by [the Central Government 3***.] and
having like jurisdiction, or before [the Supreme
Court].”*

12. A perusal of the above would clearly indicate that where the subject matters in the two suits is directly and substantially in issue in the previously instituted suit and the suit is between the same parties or between parties litigating under the same title then, the Court in which the subsequent suit is instituted shall not proceed with the trial of the suit.

13 Admittedly, C.S.No.290 of 2016 is the earlier suit and the parties in the instant suit are also parties in the earlier suit and that apart, the properties which are the subject matter of the suit is also the subject matter of the earlier suit. Therefore, the provisions of Section 10 CPC would squarely apply to the case on hand. The learned Judge has rightly allowed the application and I seen no reason to interfere with the same.



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14. Accordingly, the Civil Revision Petition stands dismissed.

No costs. Consequently, the connected Miscellaneous Petition is closed.

21.04.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The VI Additional City Civil Court at Chennai.



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P.T. ASHA. J.,

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