



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.1696 of 2023

and

C.M.P(MD)No.8449 of 2023

Jeyalakshmi

...Petitioner/Petitioner/1st Defendant

Vs.

Anbarasan

...Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, as against the order passed by Principal District Munsif Court, Karur in I.A.No.1/2023 in O.S.No.223/2011 vide order dated 21.03.2023.

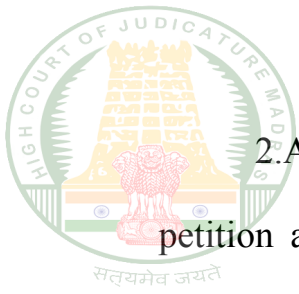
For Petitioner : Mr.P.Samuel Gunasingh

For Respondent : Mr.V.Meenakshi Sundaram
for Mr.I.Velpradeep

* * * * *

ORDER

The first defendant in O.S.No.223 of 2011, has filed the present revision petition, challenging the dismissal of her application seeking permission of the Court to file additional written statement.



2.A perusal of the records reveal that the respondent in the revision petition as plaintiff had filed the above said suit for the relief of permanent injunction. The defendant had already filed his written statement in July 2011.

When the suit was posted for cross examination of P.W.1, the defendant had filed the present application in I.A.No.1 of 2023, seeking permission of the Court to file additional written statement. This application has been dismissed. Challenging the same, the present revision petition has been filed.

3.According to the learned Counsel appearing for the revision petitioner, the plaintiff and the defendant are the brother and sister and they are the co-owners of the property. The plaintiff is claiming the title to the property on the basis of Will said to have been executed by the mother on 23.12.1983, which is strongly disputed by the defendant. In such circumstances, unless the plaintiff prays for declaration of title, the suit is not maintainable. Further, one of the co-sharers of the property has already filed O.S.No.264 of 2011, before the Additional Sub Court, Karur, for the relief of partition and separate possession. This suit property in the present suit is shown as the first item in O.S.No.264 of 2011. Unless the said partition suit is disposed of, the present suit for permanent injunction filed by one of the co-owners cannot be decided. The defendants had filed an application in I.A.No.1 of 2023, seeking permission of the Court to file additional written statement.



4.Per contra, the learned Counsel appearing for the respondent herein had contended that both the suits are pending from the year 2011 onwards. The present revision petitioner is also a party in O.S.No.264 of 2011. When the present suit is posted for cross examination of P.W.1, an attempt has been made to drag on the proceedings. That apart, the defendants being aware of the pendency of O.S.No.264 of 2011, should have filed the written statement at the earliest point of time. Now he cannot file the additional written statement at the fag end of the trial.

5.It is also brought to the notice of the Court that the defendants in O.S.No.223 of 2011, has filed the Tr.C.M.P.No.275 of 2024 before this Court. The said suit in O.S.264 of 2011, is pending on the file of the Additional Sub Court, Karur. The said Tr.C.M.P. is pending.

6.The learned Counsel appearing for the revision petitioner, on instructions, submits that he would withdraw Tr.C.M.P.No.275 of 2024, if an order is passed for simultaneous trial of both the suits. The said submission is recorded.

7.After going through the proposed additional written statement, this Court finds that these defences would not be necessary if both the suits are tried simultaneously.



8. In view of the above said deliberations, this Court is inclined to pass the following orders:-

a) the order passed in I.A.No.1 of 2023, in O.S.No.223 of 2023 stands confirmed;

b) the suit in O.S.No.223 of 2023, pending on the file of the Principal District Munsif Court, Karur, is hereby withdrawn and transferred to 4th Additional Sub Court, Karur, to be simultaneously tried along with O.S.No. 264 of 2011; and

c) the 4th Additional Sub Court, Karur, is directed to dispose of the suit on or before **31.12.2025**.

9. With the above said observations, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

18.03.2025

Internet: Yes/No
Index: Yes/No
RJR

To
The learned Principal District Munsif, Karur.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

RJR

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