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C.R.P.NO.1940 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 15 / 12 / 2025

ORDER DELIVERED ON: 06 / 01 / 2026

CORAM :

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P.NO.1940 OF 2023

AND

C.M.P.NO.12276 OF 2023

G.S.Gunasekar
having address at D.No.21-B,
Shree Saraswathi Bus Services,
Tiruppur Road,
Udumalpet Town,
Tiruppur District.

... Petitioner/Respondent/
Plaintiff

Vs.

1.A.S.G.B.Balanagamanickam,
(President: Udumalpet Viyaparigal Sangam),
having address at No.243,
A.Sturunathasamy Chettiar & Sons Pollachi Road,
Udumalpet Town.

2.S.Kumaran,
(Secretary Udumalpet Viyaparigal Sangam),
having address at D.No.28-B,
K.Seetaraman & Co.,
Pollachi Road,
Udumalpet Town,
Tiruppur District.

3.S.K.Meighnanmoorthy,



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Treasurer Udumalpet,
Viyaparigal Sangam,
having business at No.234,
Kalamman Agencies 28-B,
Pollachi Road,
Udumalpet.

...Respondents/Petitioners/
Defendants

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, 1950, praying to set aside the Order and Final Order passed in I.A.No.562 of 2022 in O.S.No.319 of 2021 dated September 30, 2022 on the file of the District Munsif Court, Udumalpet.

For Petitioner : Mr.G.Vinoth

For Respondents : Mr.M.Sivavarathanan

ORDER

Feeling aggrieved by the Order passed by 'the District Munsif Court, Udumalpet' [hereinafter referred to as the 'Trial Court'] in a petition filed under Section 10 of 'the Code of Civil Procedure, 1908' ('CPC' for short) in I.A.No.562 of 2022 in O.S.No.319 of 2021, the Respondent therein has filed this Civil Revision Petition.

2.The Revision Petitioner herein is the Plaintiff and the Respondents herein are the Defendants in the Original Suit in O.S.No.319



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of 2021 on the file of the Trial Court.

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3.The Revision Petitioner had totally filed three Suits before the Trial Court viz., the District Munsif Court, Udumalpet and they all are at trial stage. The details are as tabulated hereunder:

S. No.	Suit No.	Plaintiff	Defendant	Relief
1	O.S.No.10 of 2019	G.S. Gunasekar	1)The Merchants Association Udumalpet, Represented by its Secretary, S.Kumaran 2)A.S.G.B.Balanagamanickam (President) 3) S.K.Meighnanmoorthy (Treasurer)	Seeking permanent injunction against the 1 st Defendant Society and their members from in any manner disturbing peaceful possession and enjoyment of the suit property therein in shop bearing nos.21, 21A, 21B and 21C with all accessories
2	O.S.No.301 of 2021	G.S. Gunasekar	1) Udumalaipettai Viyabarigal Sangam, Represented by its President, A.S.G.B. Balanagamanickam 2) S.Kumaran, (Secretary) 3) S.K.Meighnanmoorthy (Treasurer)	Seeking a declaration that the termination notice dated October 21, 2021 terminating the Plaintiff from the 1 st Defendant - Sangam is invalid



S. No.	Suit No.	Plaintiff	Defendant	Relief
3	O.S.No.3 19 of 2021	G.S. Gunasekar	1) Udumalaipettai Viyabarigal Sangam, Represented by its President, A.S.G.B. Balanagamanickam 2) S.Kumaran, (Secretary) 3) S.K.Meighnanmoorthy (Treasurer)	Seeking not to evict the Plaintiff without following the due process of law in respect of suit property therein in shop bearing nos.21, 21A, 21B and 21C

4. When the case was posted for trial, an Interlocutory Application in I.A.No.562 of 2022 was filed by the Respondents praying to stay all further proceedings in the Suit under Section 10 of CPC till the disposal of the Suit in O.S.No.10 of 2019, which according to the Respondents is an earlier Suit pending before the Trial Court.

5. The Trial Court after hearing both sides held that O.S.No.10 of 2019 is an earlier Suit. The parties, suit property, issues for consideration and the subject matter in that Suit as well as the Suit in hand are substantially one and the same. If the said earlier Suit is decided on merits, the subsequent Suit i.e., the Suit in hand will have an impact on its decision from the decision in the earlier Suit. Hence, till the completion of earlier Suit in O.S.No.10 of 2019, the subsequent Suit has to be stayed. Accordingly, the Trial Court allowed the petition.

6. Feeling aggrieved by the Order, the Respondent therein /



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Plaintiff has preferred this Civil Revision Petition under Article 227 of the Constitution of India.

7. Mr.G.Vinoth, learned Counsel appearing for the Revision Petitioner / Respondent / Plaintiff submitted that though the parties and the suit property in both the Suits (i.e., O.S.No.10 of 2019 and O.S.No.319 of 2021) are one and the same, the cause of action and the relief sought for are different. In the earlier Suit viz., O.S.No.10 of 2019, the Revision Petitioner / Plaintiff seeks permanent injunction but in the subsequent Suit viz., the Suit in hand, the prayer is not to evict the Revision Petitioner without following due process of law. Hence, the present Suit is not hit by the doctrine of *res sub judice* and therefore, need not be stayed under Section 10 of the CPC. Accordingly, he prayed to allow the Civil Revision Petition and set aside the Order passed by the Trial Court and dismiss the Interlocutory Application.

8. *Per contra*, Mr.M.Sivavarthan, learned Counsel appearing for Respondents 1 to 3 / Petitioners / Defendants would submit that the parties, suit property, issues to be decided and the subject matter involved in both the Suit are one and the same. In effect, the reliefs are also substantially one and the same. The said fact was rightly appreciated by



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the Trial Court and the Trial Court rightly allowed the Interlocutory Application. There is no need to interfere with the same. Accordingly, he would pray to dismiss the Civil Revision Petition.

9. Heard on either side. Perused the copy of the plaint in all three Suits and the other materials placed on record.

10. Both the Suits viz., O.S.No.10 of 2019 and O.S.No.319 of 2021 are in the trial stage. The parties to the Suits and the issues therein are one and the same. Though the reliefs are different by name, in effect they are sought to protect the Revision Petitioner's peaceful possession and enjoyment of the suit property. Both the Suits are pending before the same Court and as stated *supra*, they are the same stage viz., trial stage. If this Court is to take a strict view of Section 10 of CPC without any regard to the facts and circumstances of the case, it may look like the present Suit is hit by the doctrine of *res sub judice* under Section 10 of the CPC. But here as stated *supra*, the parties and the suit property are one and the same, and the reliefs sought for though different in wordings, ultimately seek to protect the possession of the Revision Petitioner and hence they are in effect one and the same. Further, both the Suits are in the same Court and that too at the same stage. Hence, this Court is of the



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considered view that there is no need to stay the subsequent suit, namely, O.S.No.319 of 2021 under Section 10 of the CPC, however, both the Suits can very well be tried jointly. Staying the Suit would yield no fruitful results but would only lead to delay and multiplicity of proceedings. Therefore, the Trial Court is not justifiable in allowing the Interlocutory Application. In the interest of justice, the Trial Court is directed to conduct a joint trial in O.S.No.10 of 2019 and O.S.No.319 of 2021, and as far as O.S.No.301 of 2021 is concerned, since the parties are one and the same and the subject matter is interconnected with the other two Suits, the Trial Court is directed to conduct a simultaneous trial with the aforesaid Suits in O.S.No.10 of 2019 and O.S.No.319 of 2021.

11.With the above observation and directions, this Civil Revision Petition is allowed with the following terms:

- (i). The Order dated September 30, 2022 in I.A.No.562 of 2022 is set aside.
- (ii). The Trial Court is directed to conduct a joint trial in O.S.No.10 of 2019 and O.S.No.319 of 2021 as per law.
- (iii). The Trial Court is directed to conduct a simultaneous trial in O.S.No.301 of 2021 along with the joint trial in O.S.No.10



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of 2019 and O.S.No.319 of 2021 and pass Judgments in all three Suits on the same date.

(iv). Both the parties are directed to cooperate with the Trial Court for expeditious disposal of the Suits.

(v). Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

06 / 01 /2026

Index : Yes
Speaking Order : Yes
Neutral Citation : Yes
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To

The District Munsif Court,
Udumalpet.

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R. SAKTHIVEL, J.

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PRE-DELIVERY ORDER MADE IN

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