

In the Court of Subordinate Judge, Aruppukottai
Present : Thiru. A.Pasumpon Shunmugiah, B.A.B.L., LL.M.,
Subordinate Judge, Aruppukottai.

I.A.No.2/2021 in O.S.No.86/2021

Wednesday, the 6th Day of April 2022

1. Kalimuthu
 2. Ramamoorthy
 3. Lakshmanamoorthy
 4. Palanimurugan
 5. Panchavarnam ... Petitioners/Defendants

/ Vs/

1. Ramarasu
 2. Sakthidevi ... Respondents/Plaintiffs

This Application came up for final hearing before me on 09.03.2022 in the presence of Thiru. R.N.Balasubramanian, Advocate for the Petitioners/Defendants and Thiru. K.M. Vijayakumar, Thiru. D. Sankaran Advocates for the Respondents/Plaintiffs and upon hearing the arguments on both side and upon perusing the records, having stood over till this date for my consideration, this Court passed the following

ORDER

1. This Application is filed by the Petitioners/Defendants Under Section 10 CPC.

2. **Brief averments of Petition** :-

Already these Petitioners/Defendants have filed O.S.No.94/2020 before this court for declaration and injunction relief. But, without any title, Respondents/Plaintiffs have filed this suit O.S.No.86/2021 in fraudulent motive. Hence, this application has to be allowed.

3. **Brief averments of Counter**:-

Suit property is not under the possession of the Petitioners/Defendants. No prima facie case and balance of convenience is in favour of Petitioners, hence, no case is made out to stay the suit as prayed by the Petitioners.

4. In the side of the Petitioners, no witness is examined and Ex.P.1 is marked. In the side of the Respondents, no witness is examined and Ex.R.1 to Ex.R.23 have been marked.

5. Point for consideration in this Petition is whether this Petition is to be allowed or not?

6. **Point:-**

Heard both sides. Perused available records. Both parties have admitted that properties and parties are one and the same in O.S.No.94/2020 and in O.S.No.86/2021. On that ground alone, the Petitioners/Defendants have filed this application under Section 10 CPC to stay proceedings in O.S.No.86/2021 till the disposal of O.S.No.94/2020.

7. The object of Section 10 CPC as per Honourable Apex Court decision in AIR 2005 SC 242 is to prevent Courts of concurrent jurisdiction from simultaneously trying two parallel suit between the same parties in respect of the same matter in issue. Further, as per Honourable Apex Court decision in AIR 2004 SC 3504, the later suit may be stayed in order to avoid multicplicity of proceedings and harassment of parties. Admittedly, both O.S.No.94/2020 and O.S.No.86/2021 are pending before this court. O.S.No.94/2020 filed by this Petitioners against the Respondents for declaration and injunction relief and O.S.No.86/2021 is filed by the Respondents against the Petitioners for injunction simplicitor. But, no reason is cited by these Petitioners as to what kind of prejudice would cause if joint trial is conducted for O.S.No.94/2020 and O.S.No.86/2021, since, this Respondents/Plaintiffs have filed I.A.No.3/2021 in O.S.No.94/2020 for joint trial of O.S.No.94/2020 and O.S.No.86/2021. Considering the above said both Apex Court decisions, this Court comes to conclusion that, if joint trial is conducted, both suits can be clubbed together and decided finally, by which, conflict decisions by same forum among the parties would be prevented. Accordingly, this court decides to dismiss the application so as to conduct the joint trial of O.S.No.94/2020 and O.S.No.86/2021.

8. In the result, this application is dismissed. No cost.

Dictated to the Stenographer and transcribed and typed by her in the computer and after correction, this Order is pronounced by me in the Open Court this the 6th day of April 2022.

Subordinate Judge,
Aruppukottai.

Witnesses examined on the side of the Petitioners, Respondents: Nil

Documents marked on the side of the Petitioners:-

Ex.P.1. --- Copy of Complaint in O.S.No.94/2020

Documents marked on the side of the Respondents:-

Ex.R.1.	25.04.1968	Online copy of sale deed in Doc.No.315/1968
Ex.R.2.	03.07.1968	Online copy of sale deed in Doc.No.716/1968
Ex.R.3.	06.12.1971	Online copy of sale deed in Doc.No.1141/1971
Ex.R.4.	04.06.2003	Xerox copy of sale deed in Doc.No.933/2003
Ex.R.5.	08.05.2008	Xerox copy of Cash Debit Receipt
Ex.R.6.	23.01.2009	Online copy of sale deed in Doc.No.67/2009
Ex.R.7.	28.07.2009	Xerox copy of patta in patta no.386
Ex.R.8.	---	Kist Receipts
Ex.R.9.	---	Copy of Sagupadi Adangal Kanakku
Ex.R.10.	---	Proceedings of Aruppukottai Revenue Tahsildar Patta Transfer Order
Ex.R.11.	24.04.2021	Computer patta in patta no.386
Ex.R.12.	24.04.2021	Computer patta in patta no.1458
Ex.R.13.	---	Kist Receipts
Ex.R.14.	---	Copy of Sagupadi Adangal Kanakku
Ex.R.15.	02.11.2020	Memorandum of Aruppukottai Revenue Tahsildar
Ex.R.16.	---	Petition given by Ramarasu to the Inspector of Police, Paralachi P.S.
Ex.R.17.	---	Petition given by Ramarasu to Sub-Inspector of Police, Paralachi P.S.
Ex.R.18.	15.08.2018	Copy of Complaint receipt
Ex.R.19.	---	Copy of Complaint in O.S.No.94/2020
Ex.R.20.	---	Kist Receipt
Ex.R.21.	---	Kist Receipt
Ex.R.22.	---	Kist Receipt
Ex.R.23.	---	Kist Receipt

Subordinate Judge,
Aruppukottai.