

(2010) 11 MAD CK 0212

In the Madras High Court

Case No : C.R.P. P.D. (MD) No. 1279 of 2008 and M.P. (MD) No. 1 of 2008

P.C. Rajendran and S.M.S.R. Chandra Bose

APPELLANT

Vs

Nagarajan and Smt. Tamil Arasi
Nagarajan and Smt.
Tamil Arasi Vs P.C. Rajendran and S.M.S.R. Chandra Bose

RESPONDENT

Date of Decision : 26-11-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 16

Citation : (2010) 11 MAD CK 0212

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : D. Muruganantham, for the Appellant; G. Maruthiah, for the Respondent

Final Decision : Dismissed

Judgement

T. Raja, J.—The present Civil Revision Petition is directed against the impugned order passed by the trial court in I.A. No. 11 of 2008 in O.S. No. 122 of 2007 dated 5.6.2008 thereby an application was moved for rejection of the pleadings under Order VI Rule 16 of Code of Civil Procedure

2. The trial court was of the view that since the Plaintiffs have filed the suit for permanent injunction, whether they are entitled for the relief as prayed for or not are all to be decided only after full trial and in such circumstance, whether the impugned order does require interference under Order VI Rule 16 of CPC as prayed for.

3. The learned Counsel appearing for the Petitioner has brought to the notice that the Respondent herein after filing the suit has not properly made out the entire pleadings including the dismissal of earlier suits. Therefore, on that basis, moved an application under Order VI Rule 16 CPC to strike off the pleadings. The trial court by dealing with the reasons cited for striking off the pleadings came to the conclusion that even though the subject matter in the present suit and the

earlier suits are one and the same, the cause of action differs. The Respondents 1 and 2 herein filed the earlier suit in O.S. No. 113 of 2003 on the file of the District Munsif Court, Usilampatti only against the Petitioners in the present application under Order 6 Rule 16 of CPC in O.S. No. 453 of 2004. The Plaintiff filed the suit against 20 persons in which also the Defendants 3 and 4 in the present suit were not parties. Further, while referring the earlier suit in O.S. No. 453 of 2004, it was held that the said suit was dismissed for default and subsequently, the present suit was filed based on the cause of action dated 18.12.2006 against the four Defendants. It was further held that though the subject matter was one and the same, the cause of action differs and on that basis, the trial court has rightly come to the conclusion that the Plaintiff is not entitled to the relief as prayed for as all the issues are to be decided only after full trial. When the trial court came to the conclusion that even though the subject matter is one and the same but the cause of action is different and therefore, whether the Plaintiff is entitled to the relief as prayed for to be decided after full trial, this Court does not find any infirmity in the said order. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected M.P. is closed.