

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.4509 OF 2015

ORDER:

On 20.11.2015, notice before admission was ordered. Learned counsel for the petitioner places on record proof of service on respondents 1 to 3 through their counsel.

The 1st defendant in O.S. No.10 of 2012 is the revision petitioner. The C.R.P. is directed against the order dated 07.09.2015 in I.A.No.374 of 2015. The revision petitioner filed I.A. No.374 of 2015 in O.S. No.10 of 2012 for clubbing O.S. No.10 of 2012 and O.S. No.9 of 2013 to conduct joint trial and dispose of both the matters through common judgment.

The case of petitioner is that O.S. No.10 of 2012 is filed by respondents 1 to 3 against the revision petitioner and respondents 4 to 6. O.S. No.9 of 2013 is filed by the revision petitioner against the 1st respondent in the C.R.P. for delivery of vacant possession of plaint schedule house within specified time etc.

The case of the petitioner is that subject matter in both the suits is one and the same. The array of parties is substantially same. According to the petitioner, lead suit is going to be O.S. No.9 of 2013. With a view to ensuring consistency in the adjudication of dispute more particularly when both the matters are pending in the same Court, the prayer for clubbing and joint trial is made through I.A.No.374 of 2015.

The trial Court through the impugned order rejected the said prayer by holding that though the revision petitioner and 1st respondent herein are common in both the suits, the issues are different. Likewise, it is further recorded that evidence adduced by both the parties is different. The trial Court found that cause of action for one suit arose in the year 2012 and another suit in the year 2013. Hence the revision.

Learned counsel for the petitioner contends that the trial Court in the order impugned in the revision did not appreciate the scope and purpose either for clubbing suit or conducting joint trial. According to him, the commonality of parties and the necessity to avoid inconsistent judgment is not considered by the trial Court but prominence is given to a few details which are already referred and they have no bearing at all. According to him, even if the suits are clubbed and joint trial is undertaken, issues remain the same, burden of proof remains the same and the prayers are considered in the common judgment.

I have taken note of the submissions of learned counsel for the petitioner and also perused the material available on record. For limited purpose of accepting the revision petitioner's prayer, I am of the view that this Court need not independently consider the reasons recorded by the trial Court suffice it to say after perusing the copies of plaints and written statements in both the matters, in the interest of justice and to ensure consistency in adjudication, the prayer in I.A.No.374 of 2015 is accepted. The order impugned in the revision is set aside and the I.A. stands allowed. Suit Nos.10 of 2012 and 9 of 2013 are directed to be clubbed and a joint trial is ordered. The trial Court is directed to dispose of both the matters within three months from the date of receipt of a copy of this order. The evidence already recorded in either of the suits is to be treated as evidence led in the lead suit and proceed accordingly without the necessity of adducing fresh evidence.

The C.R.P. is allowed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date:11.12.2015
Stp

