

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

O.S.A.No.182 of 2016

1.Dilip R Davey

2.Jaya D.Davey

.. Appellants

-vs-

1.Pammal Court Welfare Association,
rep. by its Secretary,
No.8, Dr.Raja Annamalai Road,
Flat No.204, A Block, Pурсawalkam,
Chennai-600 084.

2.Ashok R Davey

3.M/s.Ganapth Enterprises,
rep. by its Partner Ashok R Davey,
No.7, Raja Annamalai Road,
Anjani Square, Flat No.10,
IV Floor, Pурсawalkam,
Chennai-600 084.

4.Bharathi A Davey,

No.7, Raja Annamalai Road,
Anjani Square, Flat No.10,
IV Floor, Pурсawalkam,
Chennai-600 084.

.. Respondents

Appeal filed under Order XXXVI Rule 11 of O.S. Rules read with Clause 15 of the Letters Patent against the order dated 15.09.2015 in in A.No.3750 of 2015 in C.S.No.456 of 2015 on the file of original side of this Court. Application praying that the this Hon'ble court be pleased to pass an order withdrawing the suit O.S.No.2397 of 2012 on the file of the learned XIII Assistant Judge, City Civil Court Chennai and transfer the same to the file of the Hon'ble High Court to be tried along with the suit in C.S.No.456 of 2015.

For Appellants : Mr.K.M.Vijayan
Senior Counsel for
M/s.K.M.Vijayan Associates

For Respondents : Mr.C.A.Divakar for R1

JUDGMENT

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

We have heard the learned counsel for parties.

2. Both the learned counsel for parties jointly express concern that the suit must see the end at an early date and the primary concern of the learned Senior Counsel for the appellants is that withdrawal of one suit from the trial Court to this Court, which is the earlier suit would delay the trial in that matter since the present suit is still at the initial stage.

3. In order to expedite the trial, the learned counsel for parties state that they are agreeable to have the evidence recorded before a retired Judicial Officer on the expenses paid, so that the final hearing of the suit can be concluded.

4. In view aforesaid, the following agreed directions are passed:-

- (1) The written statement will be filed in the suit pending before the High Court [C.S.No.456 of 2015] within two weeks.
- (2) Parties will file all the documents in their possession and power within the same period of time.
- (3) The suit be listed for settlement of Issues before the learned Single Judge on 29.11.2016.
- (4) The suit be listed for exhibiting the documents before the Master of this Court on 13.12.2016.
- (5) In order to expedite the trial, Mr.K.Palanisamy, a retired District Judge is appointed as the Local Commissioner to record the evidence and the Local Commissioner will endeavour to conclude the evidence within a period of four months from the first date of sitting.
- (6) The fee of the Local Commissioner will be Rs.50,000/- (Rupees Fifty Thousand only) to be shared equally by two set of parties, apart from out of pocket expenses.

(7)On conclusion of the trial, both the suits will be placed before the learned Single Judge for fixing the date for final hearing of the matters.

5. The appeal is disposed of in the aforesaid terms, leaving the parties to bear their own costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bbr

To

1 The Sub Assistant Registrar
Original Side, Madras High Court,
Chennai.

2 Copy to:

Mr. K. Palanisamy, (Mobile 9444155663)
333/H, Angarai Village and Post,
Lalgudi, Tiruchirappali District 621 703.

+1cc to Mr.C.A. Diwaha, Advocate, S.R.No.63334

+1cc to Mr.M. Vijayan, Advocate, S.R.No.63462

ppa (CO)

md (09/11/2016) & (11/11/2016)

O.S.A.No.182 of 2016

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