

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition Nos.3194 and 3259 of 2016

Common Order:

These revisions arise out of the orders passed by the Trial Court in two interlocutory applications.

2. Heard the learned counsel on both sides.

3. The suit in O.S.No.146 of 2007 was filed for partition.

It was actually filed in the year 1998. But due to transfer of the suit from one Court to another, the matter got delayed and renumbered as the suit of the year 2007.

4. During the pendency of the suit, the 2nd petitioner herein came on record as the 2nd plaintiff, staking a claim on the basis of the Will dated 17-4-1997. He independently filed another suit in O.S.No.36 of 2001.

5. An attempt was made to club both suits together, but it failed. Therefore both suits are now being tried separately.

6. At this stage, when the partition suit was taken up for hearing, the petitioner filed applications for adopting the evidence recorded in his own suit and also seeking the clubbing of both suits together. These applications were dismissed by the Trial Court forcing the 2nd plaintiff to come up with the above revisions.

7. As pointed out earlier, the present suit out of which these revisions arise, is a partition suit. If the 2nd plaintiff stakes a claim on the basis of a Will, it could have been done by him even in the present suit. After having chosen to file a second suit, the petitioner cannot seek the evidence in one suit to be adopted in the other suit. Therefore, the Trial Court was right in dismissing both the

No costs.

19th August, 2016.
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19th August, 2016.
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