

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.151 of 2017  
and C.M.P.No.637 of 2017

Mr.L.Srinivasan .. Petitioner

Vs.

Mrs.N.Saloni .. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 02.01.2017 in Memo SR.No.49058 of 2016 in O.S.No.2831 of 2015 on the file of XV Assistant City Civil Court, Chennai.

For petitioner : Mr.S.Sethuraman

ORDER

The defendant has filed this Civil Revision Petition. There are two suits. O.S.No.6716 of 2013 is filed for declaration that the plaintiff has a right of usage of passage along with the right of ingress and egress, etc., and O.S.No.2831 of 2015 is filed for mandatory injunction directing the defendant to remove the closed circuit cameras with flood lights fixed at No.24/4, Mangesh Street, T.Nagar, Chennai-17. Tr.O.P.No.84 of 2016 was filed before the City Civil Court, Chennai for transferring O.S.No.6716 of 2013 pending on the file of the 15th Assistant City Civil Court to the 1st

Assistant City Civil Court, Chennai, to be tried along with O.S.No.2831 of 2015. In the said Tr.O.P., the learned Principal Judge, on 26.08.2016, by consent, ordered that O.S.No.2831 of 2015 pending on the file of the 1st Assistant Judge, City Civil Court, Chennai, be transferred to the file of XV Assistant Judge, City Civil Court, Chennai, to be tried along with O.S.No.6716 of 2013. Thereafter, the trial had started. But, the learned trial Judge has observed that the order passed in the Tr.O.P. was only for trial along with the other suit and not for joint trial, and therefore, the evidence cannot be recorded in common. Aggrieved by the said order passed by the trial Court, the present Civil Revision Petition has been filed.

2. Admittedly, the parties in both the suits are same and the property is also same. That is the reason why they have asked for joint trial. That has been misread by the learned trial Judge, stating that it is not directed for joint trial. It is now clarified that the Principal Judge had ordered transfer of the suit only to be tried along with the other suit jointly. It is further directed that the evidence may be recorded in any one of the suits which is more comprehensive and a common judgment be delivered.

3. With the above direction, the Civil Revision Petition is disposed of. No costs. C.M.P. is closed.

24.01.2017

Copy to

The XV Assistant Judge,  
City Civil Court, Chennai.

PUSHPA SATHYANARAYANA, J

CS

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