

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 15TH DAY OF NOVEMBER 2017

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

A.No. 1665 of 2017

in

C.S.No.889 of 2006

Mr.Subramaniam
S/o.K.Krishnamurthy,
No.23, Fifth Main Road,
Raja Annamalaipuram,
Chennai-600 028.

..Applicant/Plaintiff

-Versus-

1.Mr.Mittalal Dhoka
S/o.Late.Puranmal Dhoka
Old No.12, New No.14,
Lakshmi Narasimhan Street,
T.Nagar, Chennai-600 017.

2.Mr.Rikhabchand Dhoka
S/o.Late Puranmal Dhoka
Old No.12, New No.14,
Lakshmi Narasimhan Street,
T.Nagar, Chennai-600 017.

3.Mr.Mahavirchand Dhoka
No.45, Vaidhiyaraman street,
T.Nagar, Chennai-600 017.

4.Mr.Gouthamchand Dhoka
No.45, Vaidhiyaraman Street,
T.Nagar, Chennai-600 017.

5.T.R.Pachamuthu
No.4 & 5, Prakasam Street,
Valasaravakkam,
Chennai-600 087.

..Respondents/Defendants

O.S.No. 12057 of 2010

M/s. M.G.Enterprises
Registered Partnership Firm
Represented by its Partner
Mr.Abhay Dhoka, having their
Office at Old No.12, New No.14
lakshmi Narashimhan Street
T.Nagar, Chennai 17. : Plaintiff

-Vs-

K.Subramaniam
S/o.K.Krishnamurthy,
No.23, Fifth Main Road,
Raja Annamalaipuram,
Chennai-600 028. :Defendant

A.No. 1665 of 2017

Application praying that this Hon'ble Court be pleased to withdraw the O.S.No.12057 of 2010 pending on the file of the V Addl.Judge, City Civil Court at Chennai to this Hon'ble Court and transfer the same to be clubbed together and jointly tried along with the above suit in C.S.No.889 of 2006.

This Application coming on this day before this court for hearing the court made the following order:-

This Application has been filed seeking to transfer the suit in O.S.No.12057 of 2010 [Originally filed as C.S.No.761 of 2005 before this Court] which is laid for recovery of money based on the promissory note dated 18.08.2004 for a sum of Rs.10,00,000/-, alleged to have been executed in

favour of the plaintiff therein.

2. The defendant in O.S.No.12057 of 2010 has filed a suit in C.S.No.889 of 2006 seeking to set aside the sale deed said to have been executed by him on 07.02.2005 in favour of the defendants 1 and 2 in C.S.No.889 of 2006 alleging that the said sale deed has been obtained by coercion.

3. The said defendants 1 and 2 in C.S.No.889 of 2006 have laid a suit in CS.No.607 of 2007 seeking recovery of possession. The sale deed is dated 07.02.2005. The borrowing based on which the suit in O.S.No.12057 of 2010 has been filed is on 18.08.2004 and that is subject matter of the suit for recovery of money based on promissory note filed by a firm called MG Enterprises represented by one Mr.Abhay Dhoka.

4. The suit in C.S.No.889 of 2006 has been filed by the Applicant against five individuals, four of whom are brothers. I do not see any nexus between the two suits.

5. The claim of the applicant that the promissory note dated 18.08.2004 which is the subject matter in O.S.No.12057 of 2010 [Originally filed as C.S.No.761 of 2005 on the file of this Court] is interconnected with the sale deed dated 07.02.2005 is a total misconception.

6. I neither see any common issue in these suits nor any possibility of conflicting judgments if the suits are tried separately. I do not find any reason to transfer the suit in O.S.No.12057 of 2010 on the file of the City Civil

Court to try along with the suit in C.S.No.889 of 2006.

7. Hence, this Application is dismissed.

Sd/.R.S.M.J
15.11.2017

//Certified to be a true copy//

Dated this the day of 2018.

JJ 14.03.2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of
the Order/Judgment Decree in this format.