

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(ORDINARY ORIGINAL CIVIL JURISDICTION)
TUESDAY, THE 14TH DAY OF FEBRUARY 2017
THE HON'BLE MR.JUSTICE N.SATHISHKUMAR

A.No.933 of 2017
in
C.S.No.26 of 2011

C.S.No.26 of 2011

1.Girdharilal Chandak & Brs(HUF)
rep. By its Kartha, Yogendra Chandak
S/o.Late Girdharilal Chandak,
Previously Having its Office at
NO.9, Mount Road, Chennai-2
Presently at NO.66(Old NO.100), G.N.Chetty Road,
T.Nagar, Chennai 600 017.

2.K.G.Chandak & Sons
rep. By its Partner, Yogendra Chandak(HUF)
rep. By its Kartha Yogendra Chandak
Previously Having its Office at
NO.9, Mount Road, Chennai-2
Presently at NO.66(Old NO.100), G.N.Chetty Road,
T.Nagar, Chennai 600 017.

3.Worldwide Impex Private Ltd
Rep. By its Director, Yogendra Chandak
Previously Having its Office at
NO.9, Mount Road, Chennai-2
Presently at NO.66(Old NO.100), G.N.Chetty Road,
T.Nagar,Chennai 600 017.

4.Worldwide Hometex Pvt. Ltd.
Rep. By its Director, Yogendra Chandak
Previously Having its Office at
NO.9, Mount Road, Chennai-2
Presently at NO.66(Old NO.100), G.N.Chetty Road,
T.Nagar,Chennai 600 017.

5.Worldwide Crystals Pvt. Ltd
Rep. By its Director, Yogendra Chandak
Previously Having its Office at
NO.9, Mount Road, Chennai-2
Presently at
NO.66(Old NO.100), G.N.Chetty Road,
T.Nagar, Chennai 600 017

...Plaintiffs/Applicants

Vs

1.S.Mehdi Ispahani
S/o.Late S.J.Ispahani
No.177 Poonamallee High Road
Kilpauk, Chennai 600 010

2.S.Ali Ispahani
S/o.Late S.J.Ispahani
No.177 Poonamallee High Road
Kilpauk, Chennai 600 010

3.S.Mohamed Ispahani
S/o.Late S.J.Ispahani
No.177 Poonamallee High Road
Kilpauk, Chennai 600 010

4.P.Kesan
S/o.Parasuraman
No.7, Tirumalai Pillai Road
T.Nagar, Chennai 600 017.

5.K.R.Ashok
S/o.K.R.Srinivasan
Old No.4, New NO.7,
Lakshmipuram Main Street,
Royapettah, Chennai-14.

...Defendants/Respondents

A.No.933 of 2017

Application praying that this Hon'ble Court be pleased to order
joint trial of the suits in C.S.No.285 of 2006 Pending before this
court Jointly trail along with and
C.S.No.26 of 2011.

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

This application is filed to order joint trial of the suits in C.S.No.285 of 2006 pending before this Court and for joint trial along with the suit in C.S.No.26 of 2011.

2. It is not disputed by both sides. The suit in C.S.No.285 of 2006 is filed for recovery of the arrears from the defendants based on the separate cause of action arose during the landlord-tenant relationship between them. Whereas, the suit in C.S.No.26 of 2011 is filed for damages as against the landlord for alleged eviction. On the basis of the separate cause of action both suits were filed. Therefore, merely because the parties are one and the same, joint trial cannot be ordered in both the suits. It is to be seen whether suits are based on common set of law or facts then only joint trial can be ordered. Where as in both suits the cause of action is entirely different with each other. These suits has been filed by the same parties and cause of action in C.S.No.285 of 2006 are entirely different and arose during the year 2006. Other suit is filed for claiming damages and the cause of action in the other suit is entirely different. Whereas in the suit for damages the parties have to independently establish their case. It is well settled in the suit for damages the party claiming damages has to establish the same before the Court of Law, the nature of the damages suffered by the individual. I am of the view that both suits cannot be tried jointly and both the suit has to be tried independently and in

judgment **Supreme Court (2007) 2 Supreme Court Cases 551 in Prem Lala Nahata and another Vs. Chandi Prasad Sikaria** in para 18, wherein it is held that the jurisdiction to consolidate arises where there are two or more matters or causes pending in the Court and it appears to the Court that some common question of law or fact arises in both or all the suits or that the rights to relief claimed in the suits are in respect of or arise out of the same transaction or series of transactions; or that for some other reason it is desirable to make an order consolidating the suits.

3. Having regard to the above judgment and nature of the relief claimed in both suits, I am of the view that joint trial cannot be ordered, hence this application is dismissed.

4. Post the suit before the learned Additional Master II for continuation of recording evidence in both the suits.

Sd/.N.S.K.J
14.02.2017

//Certified to be a true copy//
Dated this the day of 2017.

MD/24.02.2017

COURT OFFICER

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