

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02..01..2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR. JUSTICE N.AUTHINATHAN

Original Side Appeal No.290 of 2013

SP. Lakshmanan

... Appellant

-Versus-

1.Dr.P.Mahalingam

2.M/s.Swetha Associates,
Rep. by Partner B.Suresh Kumar,
No.15, Venkataraman Street,
Srinivasa Avenue,
R.A.Puram,
Chennai 600 028.

3.B.Suresh Kumar,
Partner,
M/s.Swetha Associates,
No.15, Venkataraman Street,
Srinivasa Avenue,
R.A.Puram,
Chennai 600 028.

4.S.Raman,
Partner,
M/s.Swetha Associates,
No.15, Venkataraman Street,
Srinivasa Avenue,
R.A.Puram,
Chennai 600 028.

5.Standard Chartered Bank,
Home Loan Department,
29/30, Raja Rajeswari Towers,
Dr.Radhakrishnan Salai,
Chennai 600 004.

6.M/s.Swetha Associates,
Rep.by its Partner B.Suresh Kumar,
No.15, Venkataraman Street,
Srinivasa Avenue,

No.15, Venkataraman Street,
Srinivasa Avenue,
R.A.Puram,
Chennai 600 028.

7.B.Suresh Kumar,
Partner,
M/s.Swetha Associates,
No.15, Venkataraman Street,
Srinivasa Avenue,
R.A.Puram,
Chennai 600 028.

.. Respondents

Original Side Appeal under Order 36 , Rule 1 of Original Side Rules r/w Clause 15 of Letters Patent, praying to set aside the order dated 10.09.2012 made in Appln.No.3444 of 2012 in C.S.No.781 of 2006.

For Appellant : Mr.PL.Narayanan

For Respondents : Mr.Muthumani Doraisami
for Kandavadivel Doraisami for R1
Mr.K.V.Babu for R2 and R3

JUDGMENT

(Judgement of the Court was delivered by S.NAGAMUTHU. J.)

Challenge in this appeal is to the order dated 10.09.2012 made in Application No.3444 of 2012 in C.S.No.781 of 2006 wherein the appellant had prayed for transfer of the suit in O.S.No.11844 of 2010 from the file of the learned IV Additional Judge, City Civil Court, Chennai, to the file of this court so as to try along with C.S.No.781 of 2006.

2. It is the contention of the appellant that both the suits are connected since the property in respect of which both the suits have been filed is one and the same. It is also contended that if these two suits are tried before two different forums, there is likelihood of conflicting decisions being taken. It is brought to our notice that none of the respondents in the application opposed the same. However, the learned single Judge has dismissed the application on the sole ground that the civil suit in C.S.No.781 of 2006 was then ripe for trial and, therefore, the suit in O.S.No.11844 of 2010 could not be withdrawn from the file of the learned IV Additional Judge, City Civil Court, Chennai.

3. We are not at all persuaded by the said decision taken by the learned single Judge. The purpose of transfer sought for is to avoid any conflicting decision being taken by two different forums. When there is no dispute that the property is one and same in both the proceedings and the relief sought for by the parties also relate to most of the common issues,

in our considered view, interest of justice requires that both the suits should be tried by one and the same court. Therefore, the impugned order passed by the learned single Judge deserves to be set aside, the application No.3444 of 2012 in C.S.No.781 of 2006 should be allowed and the case in O.S.No.11844 of 2010 should be withdrawn from the file of the learned IV Additional Judge, City Civil Court, Chennai.

4. In the result, the Original Side Appeal is allowed. The impugned order dated 10.09.2012 made in Appln. No.3444 of 2012 in C.S.No.781 of 2006 is set aside and the Appln. No.3444 of 2012 is allowed and the suit in O.S.No.11844 of 2010 is withdrawn from the file of the learned IV Additional Judge, City Civil Court, Chennai, so as to be tried along with C.S.No.781 of 2006 by this court. Considering the nature of the claim, there shall be no order as to costs.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

kmk

+1cc to M/s.P.L.Narayanan, Advocate sr.273

+1cc to M/s.K.V.Babu, Advocate sr.172

O.S.A.No.290 of 2013

rp(co)
ss(30/01/2017)

सत्यमेव जयते

WEB COPY