

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. Nos.432 & 433 of 2017

Tr.C.M.P.No.432 of 2017:-

K.Mitra ... Petitioner/Plaintiff

Vs.

1.S.Sulakshana
2.K.V.Krishnaswamy
3.S.Bhaskar

... Respondents/Defendants

Prayer in Tr.CMP.No.432/17:- Petition has been filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.1550 of 2009 on the file of the I Additional City Civil Court, Chennai and to transfer the same to the file of III Additional Judge, City Civil Court, Chennai to be tried along with O.S.No.1020 of 2011.

Tr.C.M.P.No.433 of 2017:-

K.Mitra ... Petitioner/Second defendant

Vs.

1.S.Sulakshana
2.K.V.Krishnaswamy

... 1st Respondent/Plaintiff
... 2nd respondent/1st defendant

Prayer in Tr.C.M.P.No.433/17:- Petition has been filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.2157 of 2012 on the file of the I Additional City Civil Court, Chennai and to transfer the same to the file of III Additional Judge, City Civil Court, Chennai to be tried along with O.S.No.1020 of 2011.

For Petitioner in both
the Tr.CMPs.

: Ms.Vasudha Thiagarajan

For R-1 in both the
Tr.C.M.Ps.

: Mr.D.Jayasekar
for M/s.V.Manohar

For R-2 in both the
Tr.C.M.Ps. : No Appearance

For R-3 in Tr.CMP
No.432 of 2017 : Notice returned as
addressee left

COMMON ORDER

These Transfer Civil Miscellaneous petitions have been filed to withdraw the suits in O.S.Nos.1550 of 2009 & 2157 of 2017 on the file of the I Additional City Civil Court, Chennai and to transfer the same to the file of the III Additional Judge, City Civil Court, Chennai to be tried along with O.S.No.1020 of 2017.

2. Earlier this Court by order dated 28.01.2009, had transferred both suits i.e, O.S.No.324 of 2007 [re-numbered as O.S.No.1550 of 2009] and O.S.No.644 of 2008 [suit filed by the first respondent herein] to the file of I Additional Judge, City Civil Court, Chennai. The petitioner herein along with his wife filed yet another suit in O.S.No.351 of 2009 seeking for partition and separate possession. The said suit in O.S.No.351 of 2009 had also been transferred to file of I Additional Judge, City Civil Court, Chennai, pursuant to the orders of this Court dated 07.12.2010. In the order dated 07.12.2010, this Court had made an observation that the suits in O.S.No.323 of 2007 and O.S.No.351 of 2009 were transferred to the file of the I Additional Judge, City Civil Court, Chennai, to be tried along with O.S.No.324 of 2009 [re-numbered as O.S.No.1550 of 2009]. It is pertinent to note here that O.S.No.323 of 2007 had been re-numbered as O.S.No.2157 of 2012 and O.S.No.351 of 2009 had been re-numbered as O.S.No.1020 of 2011 and all the three suits [O.S.Nos.1550 of 2009, 2157 of 2012 and 1020 of 2011] were clubbed together and a joint trial had been commenced, evidences were recorded in O.S.No.1020 of 2011 before the Ist Additional Judge, City Civil Court, Chennai.

3. Thereafter, since there was no Presiding Officer at that point of time in the I Additional City Civil Court, Chennai and the Assistant Judge-in-charge- of the I Additional City Civil Court was not taking up the suits. The petitioner along with his wife filed C.R.P.(PD).No.3844 of 2016 before this Court seeking for early disposal of the suit in O.S.No.1020 of 2011. However, this court after considering the issue, had transferred the suit in O.S.No.1020 of 2011 to the file of III Additional Judge, City Civil Court, Chennai and a direction was given to the court below to dispose of the suit in day-to-day basis.

4. It is the grievance of the petitioners that though they obtained an order in C.R.P.(PD).No.3844 of 2016 on 06.01.2017 to dispose of the suit on day-to-day basis, since in the order copy there is no mention about the transferring of other two suits i.e., O.S.No. 1550 of 2009 and O.S.No. 2157 of 2012, the learned Judge is not ready to taken up the other two suits. Hence, the present petitions have been filed.

5. Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the materials available on record.

6. Considering the facts and circumstances of the case and taking into account the earlier order passed by this court on 07.12.2010 in Tr.C.M.P.Nos.206, 207 and 373 of 2010 wherein and whereby, this court had already transferred the other two suits i.e., O.S.No.1020 of 2011 and O.S.No.2157 of 2012 to the file of I Additional Judge, City Civil Court, Chennai, to be tried along with O.S.No.1550 of 2009, subsequently, this court, by order dated 06.01.2017 in CRP.No.3844 of 2016 transferred the suit in O.S.No.1020 of 2011 to the file of III Additional Judge, City Civil Court, Chennai, the learned III Additional Judge, City Civil Court, Chennai is hereby directed to take up the suits in O.S.No.1550 of 2009, O.S.No.2157 of 2012 and O.S.No.1020 of 2011 jointly. Since already a direction had been given by this court in its order dated 06.01.2007 in C.R.P.(PD)No.3844 of 2016 to take up the suit in O.S.No.1020 of 2011 on day-to-day basis, the learned III Additional Judge, City Civil Court, Chennai is directed to dispose of all the three suits pending on its file, as expeditiously as possible preferably on or before 31.08.2018.

7. With the above directions and observations, these two Transfer CMPs. are ordered. No costs.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

smi

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To

1. The I Additional Subordinate Judge,
City Civil Court, Chennai.

2. The III Additional Judge,
City Civil Court, Chennai

+1cc to Mr.R.Thiagarajan, Advocate, sr.no.25840

+2cc to the Government Pleader, sr.no.26672,26673

Tr.C.M.P. Nos.432 & 433 of 2017

SG(CO)

RRK(23/05/18)



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