

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD)No.541 OF 2019

D.Kumar

... Petitioner

1.D.Suresh

2.Pandian

3.Manzoor

4.Bharani

Vs.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the judgment and decree dated 16.12.2017 made in Transfer O.P.No.35 of 2017 passed by Principal Judge of City Civil Court, Chennai.

For Petitioner

: Mr.Krishna Ravindran

For Respondent-1

: Mr.Visvassoundaram

ORDER

This Civil Revision Petition is filed by the petitioner seeking to set aside the judgment and decree dated 16.12.2017 passed in Tr.O.P.No.35 of 2017 by the Principal Judge of City Civil Court, Chennai.

2. The first respondent filed a suit in O.S.No.3259 of 2014 for permanent injunction whereas the petitioner filed a suit in O.S.No.5004 of 2016 for permanent injunction and another suit in O.S.No.6262 of 2016 for declaration declaring the respondent / first defendant as encroacher in respect of the Schedule B properties of the plaint schedule property. In all the above suits, the parties are one and the same.

3. The subject matter of the issue is a house in which the petitioner / plaintiff and the respondent / defendant, who are brothers, have equal shares. The issue revolves around half share of the parties, in the house. Since the dispute is between the same parties and the subject is also one and the same and the decision in one suit will have direct impact on the other suit, instead of trying the suits in different Courts, in the interest of justice and to avoid multiplicity of proceedings, the suits can be tried before the same Court.

4. Considering the facts and circumstances, the order passed by the learned Principal Judge, City Civil Court, Chennai in Tr.OP.No.35 of 2017 dated 16.12.2019 is set aside.

5. The suits in O.S.Nos.5004 and 6262 of 2016 pending on the file of IV Assistant City Civil Court, Chennai are withdrawn and transferred to XI Assistant City Civil Court, to be tried along with O.S.No.3259 of 2014, pending on the file of same Court. It is open to the learned XI Assistant Judge, City Civil Court, Chennai to conduct either joint or simultaneous trial.

6. Learned XI Assistant Judge, City Civil Court, is directed to dispose of the suits within a period of six months from the date of receipt of a copy of this order.

7. The Civil Revision Petition is disposed of. No costs.

20.06.2019

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