

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD) No.1186 OF 2019

AND

C.M.P.No.7609 OF 2019

1.B.Uma
2.B.Chellammal

... Petitioners

Vs.

1.Mohamed F.Asik
2.Chendur Foundation,
Rep. by Proprietor R.Petchimuthu,
Door No.2/12, Nethaji Street,
Nehru Nagar, Guindy,
Chennai-600088.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and final order passed in Tr.CMP.No.124 of 2018 dated 19.02.2019 on the file of the Principal Judge, City Civil Court, Chennai.

For Petitioners : Mr.M.Lokesh

For Respondent -1 : Mr.S.Anburaja

For Respondent -2 : No Appearance

ORDER

The first respondent filed a suit in O.S.No.5196 of 2015 for permanent injunction restraining the defendants / petitioners and the second respondent herein from evicting him from the suit property without due process of law, whereas, the first petitioner / plaintiff filed a suit for delivery of vacant possession and for permanent injunction vide. O.S.No.3408 of 2018.

2. The parties in both the suits are one and the same and the subject matter of the suit is also one and the same. The trial Court dismissed the petition filed for transfer of O.S.No.5196 of 2015 on the ground that the subject matter of the suit are the same, but the parties, cause of action and relief are different and their appeal right will be curtailed. But the fact remains that petitioners are the original owners of the property and the second respondent came into picture by way of a Joint Venture Agreement. The first respondent claims right through him for the property allotted to second petitioner's share. Whether the second respondent is entitled to lease it to the first respondent and whether the same binds the petitioners are the issues to be decided. In essence, the right of title and possession revolves around all these parties. Eventhough the relief sought for in these suits appear to be different, they are inter-related. Hence, this Court is of

the considered opinion that both the suits have to be tried together.
The order passed by the Trial Court is not sustainable in law and accordingly is set aside.

3. The suit in O.S.No.5196 of 2015 pending on the file of the IV Assistant City Civil Court, Chennai, is withdrawn and transferred to III Additional City Civil Court, Chennai, to be tried along with O.S.No.3408 of 2018. It is open to the III Additional City Civil Court, Chennai, to conduct the matter either by joint trial or simultaneous trial.

4. The Civil Revision Petition is allowed to the extent indicated above. No costs. Consequently, connected civil miscellaneous petition is closed.

सत्यमेव जयते

05.08.2019

Index : Yes/No
Speaking Order/Non Speaking order
bkn/tk

To

1.The III Additional City Civil Court, Chennai.

2.The IV Additional City Civil Court, Chennai.

M.GOVINDARAJ, J.

bkn/tk



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