

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 19TH DAY OF JULY 2019

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

A. No.4615 of 2019

in

C.S.No.301 of 2017

**C.S.No.301 of 2017:**

V.Gopalan,  
S/o.Late Veeraraghava Lyer,  
No.6, Ananda Street  
Alwarpet,  
Chennai 600 018 ...Plaintiff

-vs-

1.Chemithern Plants & Systems Private Limited,  
Represented by its Director,  
Mr.V.Shanath Babu,  
No.31, First Main Road,  
Rajaannamalaipuram,  
Chennai 600 028

2.V.Shanath Babu,  
No.1, V.C.Garden Second Street  
Mandaveli, Chennai 600 028 ..Defendants

**A.No.4615 of 2019:**

1.Chemithern Plants & Systems Private Limited,  
Represented by its Director,  
Mr.V.Shanath Babu,  
No.31, First Main Road,  
Rajaannamalaipuram,  
Chennai 600 028

2.V.Shanath Babu,  
No.1, V.C.Garden Second Street  
Mandaveli, Chennai 600 028 ..Applicants/Defendants

-Versus-

V.Gopalan,  
S/o.Late Veeraraghava Lyer,  
No.6, Ananda Street  
Alwarpet,  
Chennai 600 018 ...Respondent/Plaintiff

Application praying that this Hon'ble Court be pleased to withdraw the pending suit O.S.No.256/2018 pending before the Subordinate Judge, Poonamallee and transfer to this Honble Court and club along with the above suit C.S.NO.301/2017 for joint trial.

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

This application has been filed seeking transfer of the suit in OS.No.256 of 2018 pending on the file of the Sub-Court, Poonamallee to this court for joint trial with CS.No.301 of 2017.

2. The transfer is sought for mainly on the ground that the parties to the proceedings are same and the reliefs sought for are interconnected.

3. The application for transfer is opposed by the respondents contending that there is no connection between the two proceedings. According to the respondents, CS.No.301 of 2017 has been filed for direction to the defendants to substitute the collateral security by other property or by repaying the 3<sup>rd</sup> defendant Bank as agreed to by the 2<sup>nd</sup> defendant or to direct the defendants to pay the entire amounts of loss and damages arising out of the recovery measures taken by the SBI and for other reliefs.

4. The suit in OS.No.256 of 2018 is the suit for ejectment filed by the owner of the land in question against the defendants 1 and 2.

5. According to the plaintiff, the defendants are the tenants. The counsel for the applicant would submit that the 2<sup>nd</sup> defendant in both the suits purchased the major share holding of the 1<sup>st</sup> defendant Company from the plaintiff. The 1<sup>st</sup> defendant Company was a tenant in respect of the land that belonged to the plaintiff. According to the counsel, there was an understanding between the parties

<https://hcservices.ecourt.gov.in/hcservices/> settlement of the dues to the Bank the plaintiff will convey the property to the 2<sup>nd</sup> defendant. in order to

enforce the said agreement/ understanding, 2<sup>nd</sup> defendant filed counter claim in CS.No.301 of 2017.

6. Be that as it may, the suit in OS.No.256 of 2018 is a suit for ejectment simpliciter. I do not find any common issue arising in both the suits. All that is alleged is that there is a oral agreement for sale of the property between the plaintiff and the 2<sup>nd</sup> defendant. The same has to be established in the manner known to law. CS.No.301 of 2017 being a suit for direction to the 2<sup>nd</sup> defendant to substitute his property as security for the liabilities of the 1<sup>st</sup> defendant or in alternative to pay damages, I find no common issues arising in both the suits.

7. Hence, I am of the considered opinion that OS.No.256 of 2018 cannot be transferred to this court to be tried along with CS.No.301 of 2017. This application for transfer is therefore dismissed however in the circumstances no order as to costs.

Sd/.R.S.M.J.

19.07.2019

//Certified to be a true copy//

Dated this the                      day of                      2019.  
SU/25.07.2019

COURT OFFICER

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