

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 31ST DAY OF JULY 2019

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

A. No.5107 of 2019

in

C.S.No.194 of 2015

Mrs.S.Pramila
W/o.Mr.Sundaravadivelu
MIG No.203, Second Street,
Mogappair Eri Scheme,
Chennai-600 037. ..Plaintiff

Vs

1.Mr.K.Bala Venkatesh
S/o.Late.R.Kannappan

2.Mr.B.Vetrivelar
S/o.K.Bala Venkatesh
Both are residing at No.5/1,
3rd Street,
Thiruvalluvar Nagar,
Kottur, Chennai 600 085. ..Defendants

A.No.5107 of 2019:-

Mr.B.Vetrivelar
S/o.K.Bala Venkatesh
at No.5/1, 3rd Street,
Thiruvalluvar Nagar,
Kottur, Chennai 600 085. ..Applicant / 2nd Defendant

1. Mrs.S.Pramila
W/o.Mr.Sundaravadivelu
MIG No.203, Second Street,
Mogappair Eri Scheme,
Chennai-600 037. ..1st Respondent/Plaintiff

2. Mr.K.Bala Venkatesh
S/o.Late.R.Kannappan
at No.5/1,
Thiruvalluvar Nagar,
Kottur, Chennai 600 085. ..2nd Respondent/Defendant

Application praying that this Hon'ble Court be pleased to withdraw the suit in O.S.No.4354 of 2017 pending on the file of XII ASSISTANT CITY CIVIL COURT, CHENNAI and Transfer to this Honble Court and to be tried along with C.S.No.194 of 2015.

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

The applicant seeks to withdraw the suit in O.S.No.4354 of 2017 on the file of the XII Assistant City Civil Court, Chennai to this Court to be tried along with C.S.No. 194 of 2015.

2. According to the applicant, the property subject matter of both the suits is same and the issues that arise are also the same. Hence, both the suits must be tried together. The respondent has filed the counter stating that the issues involved in both the suits are different. While the suit in C.S.No. 194 of 2015 has been filed seeking specific performance of agreement of sale dated 18.03.2014 entered into between the defendants and the plaintiff, the suit in O.S.No.4354 of 2017 has been filed against the mother of the plaintiff in C.S.No. 194 of 2015 by the second defendant in the said suit and for a declaration that the mortgage executed by the first defendant in C.S.No. 194 of 2015 is null and void and not binding on the plaintiff therein/ second defendant in C.S.No. 194 of 2015.

3. Considering the nature of the suits, I am of the considered opinion that there is nothing in common except the property involved in both the suits. There is no chance of any conflicting views on any of the issues that had arisen in both the suits. The core issues that are to be decided in C.S.No. 194 of 2015 is as to the validity of the sale agreement dated 18.03.2014 and the readiness and willingness of the plaintiff to perform her part of the contract. The core issues that are to be decided in the suit filed by the second defendant against the mother of

the plaintiff in C.S.No. 194 of 2015 is as to the validity of the mortgage deed said to have been executed on the first defendant in C.S.No. 194 of 2015. Therefore, I do not see any reason for the joint trial of both the suits. Hence, this application for withdrawal of the suit is dismissed.

Sd/.R.S.M.J

31.07.2019

//Certified to be a true copy//
Dated this the day of 2019.

SU/08/08/2019

COURT OFFICER

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



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