

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2019

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.CMP. No.761 of 2019

1. Mrs. S.Rajeswari
2. Mrs. Prema Kumari
3. Mr.S.Sridhar
4. Mr. Vishnu Datta ... Petitioners

Vs.

Mr.S. Ravichandran ... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to order the transfer of Civil Suit O.S.No.1416 of 2019, on the file of learned XVIII Additional City Civil Judge, Chennai to the High Court of Madras to be tried along with the pending case T.O.S. 33 of 2015 for joint trial and disposal.

For Petitioners: Mr.N.A.Kareem

For Respondent : Mr.A.Asokan

O R D E R

सत्यमेव जयते

The petitioner herein prays for withdrawing and transferring the Civil Suit in O.S.No.1416 of 2019 pending before the XVIII Additional City Civil Judge, Chennai to High Court of Madras, to be tried along with pending T.O.S.No.33 of 2015 for joint trial and disposal.

2. The case of the petitioner herein, who is the second defendant in the suit pending before the XVIII Additional City Civil Court, Chennai, is that his old father one V.Shanmugam was the absolute owner of the suit property. The said suit property is as follows:

"Flat No.1, Ragam Apartments, T66, 1st Street, Anna Nagar, Chennai - 600 040, comprised in T.S.No.173, Block No.3, Mullam

Village, the Flat measuring 1500 sq.ft. on the first floor with an undivided share of 940 sq.ft of land with two covered car parking marked with numbers 1 & 1.

Flat No.3, Ragam Apartments, T66, 1st Street, Anna Nagar, Chennai -600 040, Comprised in T.S.No.173, Block No.3, Mullam Village, the Flat measuring 1300 sq.ft. on the first floor with an undivided share of 815 sq.ft of land with two covered car parking marked with number 3."

3. As desired by late V.Shanmugam, the suit properties should be governed and enjoyed as per the executed will dated 17.06.2005, which gave life interest to the 1st defendant Tmt.Rajeshwari, who is the first petitioner herein and his only daughter/the second petitioner and the 4th petitioner to receive equal shares in the suit property. As the father passed away on 25.03.2007, the said will was presented before High Court for grant of letters of administration into TOS as he made a rival claim of share and filed a caveat. The same was allowed and they have filed TOS.No.33 of 2015 and the matter is pending for framing of issues before this Court. Further, to strain the relationship, a suit was filed for a preliminary decree and it is numbered as O.S.No.1416 of 2019 on the file of the learned XVIII Additional City Civil Court, Chennai, which is the subject matter of TOS.No.33 of 2015. The property contested in the said suit is the same in TOS.No.33 of 2015 and the parties are the same. The petitioner herein, who is the wife of the late V.Shanmugam and aged 84 years, has filed this petition seeking for transferring the suit in O.S.No.1416 of 2019 to be tried along with TOS.No.33 of 2015.

4. As there was dispute regarding the shares of the property, wherein the 3rd parties created interest, it will be just and necessary that the matter pending before the City Civil Court to be tried along with TOS.No.33 of 2015 to bring quietus to the issue on hand.

5. Mr.A.Asokan, learned counsel appearing on behalf of the respondent has no objection for transferring the same to the High Court of Madras wherein TOS.No.33 of 2015 is pending.

6. Hence, in view of the above submissions made by the parties and the subject matter of the suit in TOS.No.33 of 2015 is the same, this Court is of the view that it will be just and proper that the suit in OS.No.1416 of 2019, which is pending before the XVIII Additional City Civil Court to be withdrawn and transferred to the High Court of Madras to be tried along with TOS.No.33 of 2015.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The suit in O.S.No.1416 of 2019 pending before the XVIII Additional City Civil Judge, Chennai, is transferred to High Court of Madras, to be tried along with pending T.O.S.No.33 of 2015. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The learned XVIII Additional City Civil Court,
Chennai.
- 2.The Sub Assistant Registrar,
Original Side, High Court, Madras-104.

+2cc to Mr.A.Ashokan, Advocate Sr.89000
+1cc to Mr.N.A.Kareem, Advocate Sr.88865

Tr.CMP. No.761 of 2019

kk[col
srg 25/11/2019

WEB COPY