

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Civil Revision Petition (PD) Nos.3101 and 3106 of 2019
and C.M.P.Nos.30328 and 30330 of 2019

Anoop Chand Chordia ... Petitioner in both CRPs.

-Vs-

1.M/s.A.K.Medical Stores
Proprietor, Mr.Kalyan B Jain
No.228/3, Govindappa Street
Chennai 600 079.

... R1 in both the CRPs

2.Anand

... R2 in CRP 3101 of 2019

Nirmal

... R2 in CRP 3106 of 2019

3.Ravi Kumar Chordia

... R3 in CRP 3101 of 2019

Prayer in CRP 3101/2019: Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 05.08.2019 passed in Tr.O.P.No.37 of 2019 on the file of the learned Principal Judge, City Civil Court, Chennai.

Prayer in CRP 3106/2019: Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 05.08.2019 passed in Tr.O.P.No.38 of 2019 on the file of the learned. Principal Judge, City Civil Court, Chennai.

For Petitioner : Mr.Nagu Sah

ORDER

Since both these revision petitions have been filed by the same petitioner and the issue raised in both the CRPs are one and the same, and the arguments are advanced by the learned counsel for the petitioner in both the cases, these two civil revision petitions are disposed of by this common order.

2. C.R.P.No.3101 of 2019 has been filed against the fair and decreetal order dated 05.08.2019 passed in Tr.O.P.No.37 of 2019 on the file of the learned Principal Judge, City Civil Court, Chennai. C.R.P.No.3106 of 2019 has been filed against the fair and decreetal order passed by the very same Court on the very same day in Tr.O.P. No.38 of 2019.

3. The revision petitioner herein filed the above Tr.O.P.No.37 and 38 of 2019, to withdraw the suit in O.S.No.13419 of 2010 and O.S.No.13346 of 2010 from the file of the II Assistant City Civil Court, Chennai and transfer the same to the file of I Assistant City Civil Court, Chennai for simultaneous trial along with O.S.No.13345 of 2010. Having considered the said Tr.O.Ps., filed by the petitioner, who was the defendant in the suit, the learned Judge dismissed both the Tr.O.P.Nos.37 and 38 of 2019, through the respective impugned orders, as against which the present Civil Revision Petitions are filed.

4. I have heard Mr.Nagu Sah, learned counsel for the petitioner, who would submit that both the suits, which were filed for recovery of money from the defendant on promissory note, are to be withdrawn and transferred the concerned Court, to be heard by way of simultaneous trial, along with O.S.No.13345 of 2010 on the file of the I Assistant City Civil Court, Chennai,. The said suit in O.S.No.13345 of 2010 was also filed against the defendant for the very same relief of recovery of money on promissory note.

5. All these suits were filed, though by different plaintiffs, they belong to one family against the revision petitioner, who was the sole defendant in the said suits. In this context, the learned counsel for the petitioner would submit that, the signature claimed to have been made in the respective pro-note of the defendant differs from one pro-note to another and also the said signature is denied by the defendant and therefore, on that ground, the defendant is having plan to seek the trial Court to compare the signature of the pro-note in admitted documents such as passport etc., and for the said purpose, if simultaneous trial is taken up by the same Court, it will be easy for the defendant to compare the signature of the defendant in the respective pro-note in the respective suits at the same time, otherwise, it will be difficult for the defendant to compare the signature.

6. I have heard the learned counsel for the petitioner and have perused the materials placed before this Court.

7. It is an admitted fact that, the suits were filed by different plaintiffs against the defendant, though they were claimed to be one family members. Therefore, the cause of action in respect of each suit would have arisen differently. Further, the learned Judge has pointed out that each suit is in a different stage, in one suit the trial is yet to be commenced, another suit is posted for cross examination of P.W.1 and in yet another suit, there is a revision petition pending before this Court. When that being so, it cannot be said that, all the suits are in the same stage and therefore, simultaneous trial is feasible. Further, in each case, though the defendant may be one and the same, but the plaintiffs are different persons, though they have been branded as one family members.

8. Therefore, simultaneous trial is thoroughly impossible in conducting these cases and each case will have its own merits and depending upon the merits, based on the evidence to be let in oral as well as documentary by both sides, the said suits will be decided by the respective Courts. Therefore, the reason cited by the revision petitioner, who is the defendant in the suit for withdrawing the respective suits and to have a simultaneous trial along with O.S.No.13345 of 2010 are not worthy reasons to be considered for the purpose of transfer of the suits for simultaneous trial.

9. Therefore, this Court finds no infirmity in the order passed by the learned Judge, who rejected the Transfer O.P.Nos.37 and 38 of 2019 seeking transfer of the suits, and the said order does not require any interference by this Court,

10. In that view of the matter, both these revisions fail and the same are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

26-09-2019

Index : yes
Internet : yes
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To

The Principal Judge, City Civil Court, Chennai.



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R. SURESH KUMAR, J.

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C.R.P.(PD) No.3101 & 3106 of 2019

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