

A.No.3552 of 2017

in

CS.No.604 of 2016

R.SUBRAMANIAN, J.,

This application has been filed seeking transfer of OS.No.2758 of 2017 pending on the file of the II Assistant City Civil Court to this Court to be tried along with CS.No.604 of 2016.

2. CS.No.604 of 2016 has been filed by one Dr.T.Sivakumar claiming that the settlement deed dated 28.06.2010 said to have been executed by his father Dr.C.Thirugnanasambandam as null and void and for partition and separate possession of his share in the suit property which belonged to his father Dr.C.Thirugnanasambandam and the consequential prayer for injunction has also been sought for.

3. The defendants in CS.No.604 of 2016 are the wife and daughter of the deceased Dr.C.Thirugnanasambandam. They are resisting the suit contending that the settlement deed is valid.

4. The suit in OS.No.2758 of 2017 has been filed by the

<http://www.judis.nic.in> defendants in CS.No.604 of 2016 against one Dr.C.Kalaichelvi seeking

permanent injunction restraining her from interfering with their possession of the suit properties and also for the relief of mandatory injunction directing her to remove all the belongings lying in the mezzanine floor and also a portion of the 2nd floor of the property.

5. It is submitted that the defendant in OS.No.2758 of 2017 is the former wife of the plaintiff in CS.No.604 of 2016. Since the defendant in OS.No.2758 of 2017 attempted to project the pendency of CS.No.604 of 2016 and denied the claim of the plaintiff in the said suit, both the suits should be tried together.

6. I am unable to accept the said contention. Whether the settlement deed is valid or not would have to be decided in C.S.No.604 of 2016. In OS.No.2758 of 2017, the question that will have to be decided is the right of the plaintiff and the right of the defendant in the said suit to be in possession of the property. The suit in CS.No.604 of 2016 having been filed to set aside the settlement deed and for partition. I do not find any common issue arising in both the suits.

7. Hence, I am not inclined to withdraw OS.No.2758 of 2017 to this Court for joint trial or simultaneous trial with C.S.No.604 of 2016. The transfer petition is therefore **dismissed**.

8. It is stated by the counsel that the suit in OS.No.2758 of 2017 is in part heard stage and the evidence is being recorded. Both the counsel would submit that the other party is attempting to drag on the trial. Hence, there will be a direction to the II Assistant Judge, City Civil Court, Chennai to complete the trial by 30th June 2019 and dispose of the suit positively by 31st July 2019.

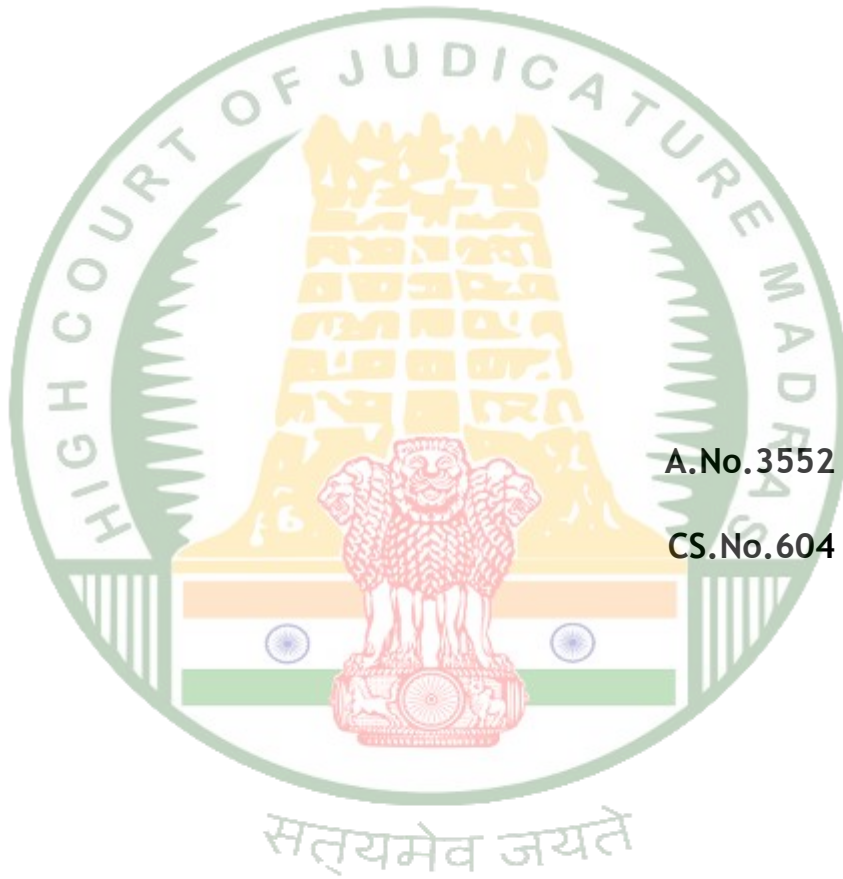
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R.SUBRAMANIAN, J.,

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