

A.No.9173 of 2019
in
C.S.No.954 of 2008

M.SUNDAR, J.

In this order, parties to this application shall be referred to by their respective ranks in the main suit for the sake of convenience and clarity.

2. Considering the narrow compass, on which this application turns now, in the light of the submissions made by learned counsel before this Court today, it may not be necessary to dilate much on facts and it will suffice to say that the main suit is one for partition as between co-parceners and there are three branches. Two branches constituting 9 plaintiffs joined together and filed the suit originally against the third branch arraying six individuals in the third branch as six defendants.

3. This Court is informed that pending suit, there was some dissension and disagreement as between the two branches, who joined together and filed the plaint. This Court is informed that plaintiff Nos.1 to 5 constitute one branch (first branch) and plaintiff Nos.6 to 9 constitute another branch viz., the second branch for convenience and clarity.

4. Plaintiff Nos.1 to 5, who constitute the first branch, have filed the instant application arraying defendant Nos.1 to 6 as respondent Nos.1 to 6 and plaintiff Nos.6 to 9 as respondent Nos.7 to 10.

5. Ms.Tanushree Arvind, learned counsel representing the counsel on record for plaintiff Nos.1 to 5, submits that the dissension amongst the two branches constituting the 9 plaintiffs has necessitated the filing of instant application with a prayer for transposition of plaintiff Nos.6 to 9 as defendant Nos.7 to 10.

6. Mr.R.Thiagarajan, learned counsel on record for plaintiff Nos.6 to 9 submits that he his not opposing this application for transposition (but with a caveat/rider), as this is a partition suit, where the dominus litus theory takes a back seat. Caveat/rider is plaintiff Nos.6 to 9 have paid Court fee for filing the suit and therefore their rights qua Court fee already paid shall remain preserved and protected.

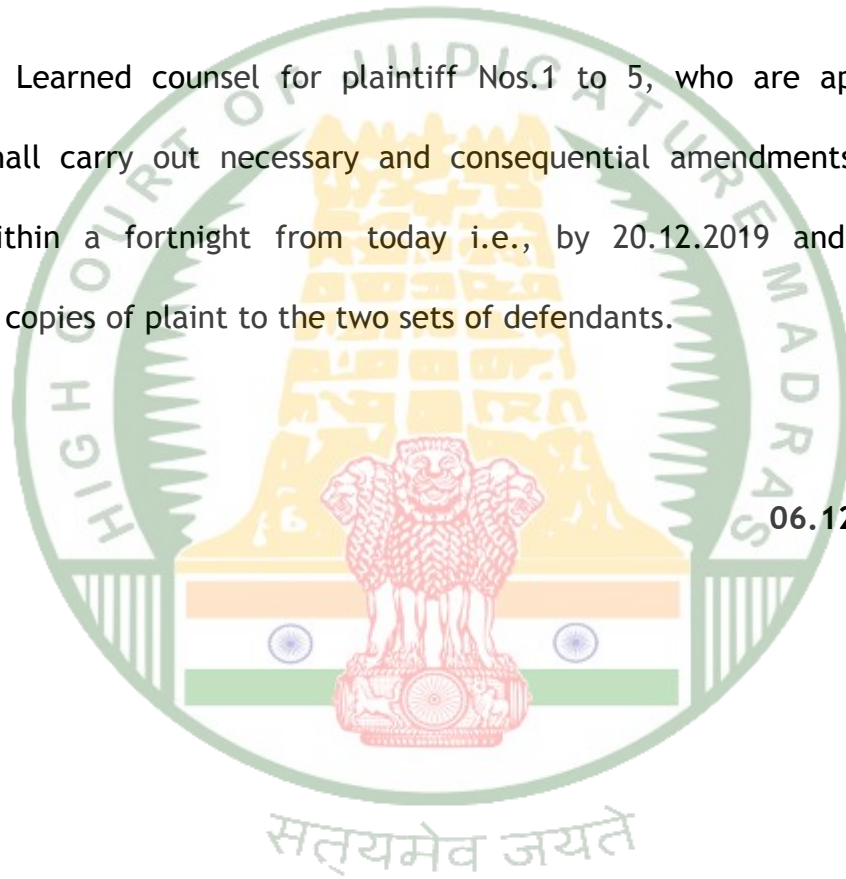
7. Ms.Divya, learned counsel representing the counsel on record for defendant Nos.1 to 6 is also before this Court and learned counsel also has no objection or opposition to this application.

8. This application is ordered on above terms or in other words, the prayer in this application is acceded to with a rider that the Court fee paid by plaintiff Nos.6 to 9 (constituting one branch) will remain preserved in this suit for all purposes.

9. Learned counsel for plaintiff Nos.1 to 5, who are applicants herein shall carry out necessary and consequential amendments in the plaint within a fortnight from today i.e., by 20.12.2019 and furnish amended copies of plaint to the two sets of defendants.

vsm

06.12.2019

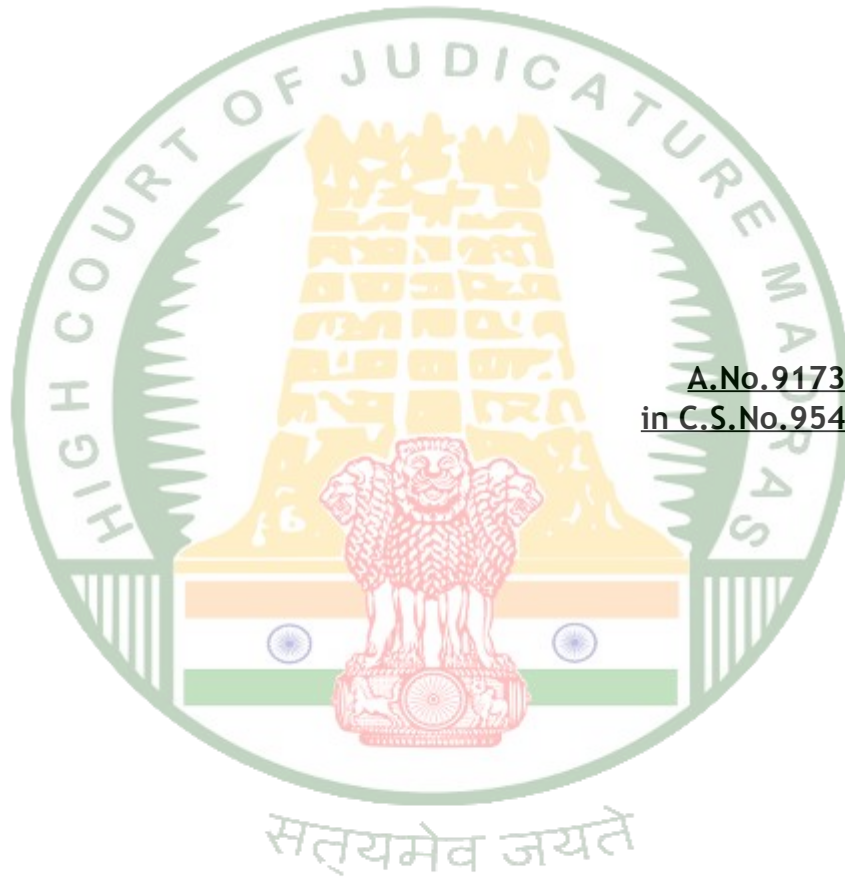


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