

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

Tr.CMP.Nos.1004 and 1005 of 2017 &
CMP.Nos.20395 & 20396 of 2017

G.Ayyasamy

.. Petitioner

-vs-

1. M. Baby ..1st respondent in TR.CMP.1004/2017 &
2nd respondent in TR.CMP.1005/2017
2. A.Parvathy ..2nd respondent in TR.CMP.1004/2017
& 3rd respondent in TR.CMP.1005/2017
3. R.Muralidharan .. 3rd respondent in TR.CMP.1004/2017 &
4th respondent in TR.CMP.1005/2017
4. G.Kulasekaran .. 4th respondent in TR.CMP.1004/2017 &
1st respondent in TR.CMP.1005/2017

Prayer in both petitions: Transfer Civil Miscellaneous Petitions filed praying to withdraw the cases A.S.No.169 of 2016 and Cross A.S.No.159 of 2017 on the file of XIX Additional Judge, City Civil Court, Chennai and transfer the same to this Court and hear the same along with A.S.No.519 of 2013 pending before this Court.

For Petitioner : Mr.P.Thiagarajan

For Respondents: No appearance

COMMON ORDER

This petition is filed seeking to withdraw the appeal in A.S.No.169 of 2016 and Cross Appeal in A.S.No.159 of 2017 on the file of XIX additional Judge, City Civil Court, Chennai and transfer the same to this Court and hear the same along with A.S.No.519 of 2013 pending before this Court.

2. For the sake of convenience, the parties are referred as per their array in Tr.CMP.No.1004 of 2017.

3. The 4th respondent filed a suit for permanent injunction not to alienate the properties in O.S.No.7944 of 2010 before the Additional District and Sessions Judge, Fast Track Court-V against the petitioner herein. The suit was decreed as prayed for on 19.12.2011, against which, the petitioner filed appeal in A.S.No.519 of 2013 before this Court.

4. Simultaneously, the 1st respondent herein filed a suit for declaration and injunction in O.S.No.952 of 2012 before the I Assistant Judge, City Civil Court, Chennai against the petitioner herein and other respondents and it was partly decreed and partly dismissed on 3.8.2015. Against which, the 4th respondent herein preferred an appeal in A.S.No.169 of 2016 which is pending before IX Additional City Civil Court, Chennai, against the said appeal, a Cross Appeal was also filed by the 1st respondent herein in Cross A.S.No.159 of 2017.

5. It is seen that the appeals viz., A.S.No.169 of 2016, preferred by 4th respondent, Cross Appeal in A.S.No.159 of 2017 filed by the 1st respondent are revolving around the same cause of action between the same parties with respect to same subject matter. Therefore, in order to avoid multiplicity of proceedings, the petitioner is before this Court seeking transfer of both appeals viz., A.S.No.169 of 2016, preferred by 4th respondent and Cross Appeal in A.S.No.159 of 2017 preferred by 1st respondent pending before the IX Addl. City Civil Court to the file of this Court for joint hearing.

6. Considering the fact that the parties are one and the same and the subject matter is also the same and the issue has to be decided on the same, this Court is of the considered opinion, in order to avoid multiplicity of proceedings, all the appeals can be heard and decided together. Hence, the appeals viz., A.S.No.169 of 2016 and Cross Appeal in A.S.No.159 of 2017 pending before the IX Additional City Civil Court, Chennai are withdrawn and the same are transferred to this Court for hearing along with A.S.No.519 of 2013 before this Court.

7. The Transfer Civil Miscellaneous Petitions are ordered accordingly. No costs. Consequently connected CMP.Nos.20395 & 20396 of 2017 are closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

msr/tk

To

The XIX Additional Judge, City Civil Court, Chennai

+2ccs to Mr.P.Thiagarajan , Advocate SR.No. 10160,10161

Tr.CMP.Nos.1004 and 1005 of 2017
& CMP.Nos.20395 & 20396 of 2017

A.SK(01/04/2019)



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