

A.No.7764 of 2018
in TOS.No.68 of 2016

K.KALYANASUNDARAM, J.

This application has been filed for transfer of the suit pending in O.S.No.3865 of 2014 on the file of the XVI Assistant City Civil Court, Chennai to this Court to be tried along with TOS.No.68 of 2016.

2.The applicant is the plaintiff in TOS.No.68 of 2016. The first respondent filed a suit for partition in O.S.No.3865 of 2014.

3.Mr.N.Ramesh, learned counsel for the applicant would submit that O.P.No.365 of 2015 filed to probate the Will dated 31.05.1993 was converted into TOS.No.68 of 2016 on the objections raised by the first respondent. Since the execution of the Will is to be decided before passing a decree in the partition suit, the suit is to be transferred to this Court.

4.The first respondent by filing a counter would oppose the application by contending that the trial in the partition suit had commenced and P.W.1 is in the witness box and after taking 36 adjournments for cross examination of P.W.1, this application has been filed belatedly.

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cse

5.It is the contention of Mr.K.V.Sundararajan, learned counsel for the first respondent that this application has no merits.

6.However, considering the fact that the decision in the probate proceedings will have a bearing on the suit filed by the first respondent for partition, this application is allowed on payment of cost of Rs.10,000/- (Rupees ten thousand only). The cost shall be paid by the applicant to the first respondent within a period of two weeks from today [05.11.2019].

7.Post the matter on 21.11.2019 "for reporting compliance".

cse

05.11.2019

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