

A.No.672 of 2020 in T.O.S.No.16 of 2019

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in

T.O.S.No.16 of 2019

SENTHILKUMAR RAMAMOORTHY, J.

This application is filed to withdraw and transfer the suit in O.S.No.6468 of 2017 from the file of the XVIII Additional City Civil Court, Chennai to the file of this Court to be tried along with TOS No.16 of 2019.

2. I heard the learned counsel for the applicant/defendant and the learned counsel for the respondents/plaintiffs.

3. The learned counsel for the applicant/defendant submitted that the applicant filed TOS No.16 of 2019 before this Court in respect of the last Will and Testament of S.Kamala. On the other hand, the respondents herein filed O.S.No.6468 of 2017 before the XVIII Additional City Civil Court, Chennai for partition of the suit schedule properties, which are the properties bequeathed under the Will.

4. He also pointed out that one of the issues framed in the suit before the City Civil Court is with regard to whether a registered Will was executed in favour of the first defendant therein by the mother of the first defendant. Therefore, he submits that it is necessary that the said suit and TOS should be tried jointly.

5. The learned counsel for the respondents herein, who are the plaintiffs in the said suit before the City Civil Court, submits that they have no objection if this application is allowed. However, he requests for time to file the written statement in the Testamentary Original Suit.

6. Upon consideration of the submissions of the learned counsel for the respective parties and on examining the affidavit in support of this application, I find that the two proceedings are required to be heard jointly, inasmuch as the same properties are the subject matter of the bequest under the Will and constitute the suit schedule properties in the partition suit.

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7. Accordingly, this application is allowed and it is directed that O.S.No.6468 of 2017 be withdrawn from the file of the XVIII Additional City Civil Court, Chennai and transferred to this Court to be

tried along with TOS No.16 of 2019. The respondents herein are granted two weeks time to file the written statement along with the application to condone the delay.

18.02.2020

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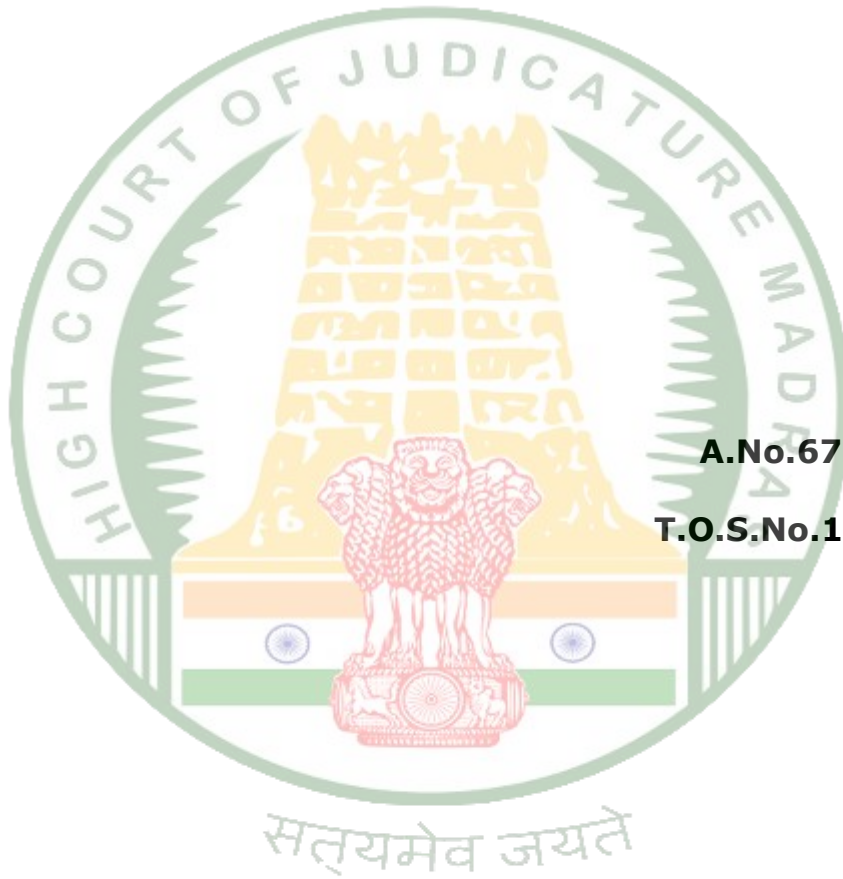


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