



A.No. 1318 of 2022
in
C.S.No. 764 of 2015

V.BHAVANI SUBBAROYAN, J.

This application has been filed to withdraw the records in O.S.No.3401 of 2021 on the file of VII Additional City Civil Court, Chennai and transfer the same to the file of this Court for joint trial along with C.S.No. 764 of 2015 pending on the file of this Court.

2. The learned counsel for the applicant would submit that the applicant/defendant is the owner of the suit schedule property Flat No.1 in the first floor measuring to an extent of 1763 sqft., along with common area of 255 sqft., measuring a total extent of 2018 sqft., together with 605 sqft., undivided share of land in the property bearing Door No.10, Plot No.93, Somasundaram Street, T.Nagar, Chennai-600 017, having purchased the undivided share of land through two sale deeds dated 15.09.1999 registered as Doc.Nos.2372 and 2375 of 1999 on the file of Sub Registrar Office, T.Nagar, Chennai and had constructed the flat measuring to an extent of 2018 sqft., by construction agreement dated 24.04.1999 entered into with one M/s.Paha Associates. Subsequently, the applicant/defendant had mortgaged the suit property in favour of one



Mr.Subhash Chand Jain for a sum of Rs.65,00,000/- and executed a deed of simple mortgage dated 08.02.2012 registered as Doc.No.288 of 2012 on the file of Sub Registrar Office, T.Nagar, Chennai.

3. He would further submit that the applicant/defendant is the owner of another flat in the same premises bearing Flat No.3 in the 2nd floor measuring to an extent of 1426 sqft., together with 605 sqft., undivided share of land in the property bearing Door No.10, Plot No.93, Somasundaram Street, T.Nagar, Chennai-600 017, having got the same by way of settlement deed dated 11.07.2011 executed by his wife Mrs.Veena Jaganath, registered as Doc.No.1473 of 2011 on the file of Sub Registrar Office, T.Nagar, Chennai. Moreover, the applicant had mortgaged the said property also in favour of the said Mr.Subhash Chand Jain for a sum of Rs.50,00,000/- and executed a deed of simple Mortgage dated 25.05.2012 registered as Doc.No.1168 of 2012 on the file of Sub Registrar Office, T.Nagar, Chennai.

4. Subsequently, the applicant was cited as an accused by the CBI in RC/31-A/2012 on the file of the CBI special Court, Patiala House Court, New Delhi, he was arrested by CBI on 15.09.2012 and interned in



the Tihar Jail for 90 days and released on bail on 16.12.2012. He had appeared before the CBI for investigation atleast once in 20 days and after producing all documents and proved his innocence, charge sheet has also been filed before the Special Court. After nearly four years, the applicant/defendant was running from Chennai to New Delhi and various courts in order to establish his innocence and could not attend to any other work. The above said Mr.Subhash Chand Jain was also aware of his precarious situation. However, taking advantage of his absence, the said Mr.Subhash Chand Jain along with his son Mr.Ameet Kumar have illegally concocted documents and fraudulently prepared a sale deed for the suit property in the name of the defendant herein Mrs.Umrao Kanwar and got the same registered as Doc.Nos.2243 and 2244 of 2013 dated 17.09.2013 on the file of Sub Registrar Office, T.Nagar.

5. Based on the said fraudulent documents, the respondent filed another suit before this Court in C.S.No.666 of 2015 against the applicant seeking to declare that she is the absolute owner of the suit property for recovery of possession from him and for mesne profits. Due to the enhancement of pecuniary jurisdiction of this Court, one of the suits, namely, C.S.No. 666 of 2015 had been transferred from the file of this



Court to the file of the VII Additional Judge, City Civil Court, Chennai and renumbered as O.S.No. 3401 of 2021. The above suit is now pending before the City Civil Court and another suit in C.S.No.764 of 2015 is pending before this Court as the value of the suit was given by the plaintiff as Rs.1,10,73,000/-. Both the above suits in C.S.Nos.764 and 666 of 2015 are between the same parties and relates to two flats in the same premises and that the transaction in both the cases were identical in as much as both the flats had been mortgaged by him to Mr.Subhash Chand Jain and in both the cases, the said Mr.Subhash Chand Jain had conspired with his son Mr.Ameet Kumar and got the properties fraudulently transferred in the name of the respondent herein by two sale deeds. Both the suits were being heard simultaneously before this Court as the facts and issues in both the suits were interlinked. Moreover, the subject matter and the issues to be decided in both the above suits, namely, C.S.No.764 of 2015 pending on the file of this Court and O.S.No.3401 of 2021 pending on the file of VII Additional City Civil Court, Chennai are interlinked. Hence, the documents relied on and the witnesses are one and the same and the parties in both the suits are one and the same. Therefore, the suits are mutually interlinked and the decision in one suit would have a bearing on the other suit. Hence, it is



just and necessary that both the suits are tried together as it would avoid multiplicity of proceedings and would prevent any conflict of findings.

6. No objection has been raised by the respondent/defendant for allowing this petition.

7. In view of the above submissions made by the learned counsel for the applicant/defendant, hence, this Court is inclined to allow this application. Accordingly, the same is allowed.

23.03.2022

msm



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