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A.Nos.3331 & 3333 of 2022 in
C.S.No.212 of 2017

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C.S.No.212 of 2017

G. CHANDRASEKHARAN, J.

Application No.3331 of 2022 is filed to withdraw and transfer the suit in O.S.No.4150 of 2020 pending on the file of XIX Assistant City Civil Court, Chennai, Application No.3333 of 2022 is filed to withdraw and transfer the suit in O.S.No.1385 of 2019 pending on the file of XIX Assistant City Civil Court, Chennai, to this Court to be tried along with C.S.No.212 of 2017.

2. Learned counsel for the applicants submitted that C.S.No.212 of 2017 was filed by one A.Azizul Karim against P.G.Sivagnanam and 7 others for the relief of specific performance of contract of execution of sale deed. It is further submitted by the learned counsel for the applicant that by showing wrong addresses of the defendants in the suit and with a connivance of the Court bailiff, summons said to have been served on the defendants. Consequently ex-parte specific performance decree was passed. The truth is that summons have not been served on the defendants in C.S.No.212 of 2017. When the matter was taken up before this Court in A.No.944 of 2020 in C.S.No.212 of 2017, this Court found, by manipulation, respondent interfered



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with the administration of Justice and directed the Registrar General, Madras High Court, to initiate complaint under Section 340 of Cr.P.C.

2(i). It is further submitted that the complaint was lodged accordingly and it is pending. Meanwhile, the plaintiff in C.S.No.212 of 2017 filed O.S.No.1385 of 2019 seeking the prayer of permanent injunction and recovery of possession in respect of the same property for which an ex-parte fraudulent decree was obtained. P.S.Kirubakaran and P.S.Anandan had also filed a suit in O.S.No.4150 of 2019 seeking the prayer of injunction to protect their possession. C.S.No.212 of 2017 is the main suit and it is pending before this Court. Therefore, all the suits should be tried jointly for a comprehensive trial and binding adjudication of the dispute pending between the parties.

3. In reply, the learned counsel for the respondent/plaintiff in C.S.No.212 of 2017 would oppose this transfer petition on the ground that the suit in C.S.No.212 of 2017 was valued at Rs.27 lakhs at the time of filing the suit and now that the pecuniary jurisdiction of City Civil Court has been enhanced to Rs.1 crore. In view of this enhancement, this suit must go to the City Civil Court.



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4. In reply to the submission, the learned counsel appearing for the applicant submitted that the High Court in its extraordinary original jurisdiction can withdraw any suit pending before any Court, within or without the Presidency of Madras, subject to its superintendence, for the purpose of rendering justice.

5. Considered the rival submission and perused the records.

6. Admittedly, there are 3 suits. C.S.No.212 of 2017 pending before this Court and other suits in O.S.No.1385 of 2019 and O.S.No.4150 of 2020 are pending before XIX Assistant City Civil Court, Chennai. The suit property in all these cases is the same property. The parties to the dispute are almost same parties. The main contention that is agitated in C.S.No.212 of 2017 is that wrong addresses were given to the defendants and with connivance of the bailiff, summons said to have been served on the defendants and ex-parte decree was obtained. Subsequently, ex-parte decree was set aside and the matter is pending for filing written statement. As already indicated, a criminal case under 340 Cr.P.C., is pending and in respect of the said fraudulent service of summons.



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7. Considering the seriousness of the allegations raised in C.S.No.212 of 2017, this Court is of the considered view that this suit need not be transferred to City Civil Court on the point of pecuniary jurisdiction. It is just and necessary in the interest of the administration of justice, all these three suits should be tried in this Court.

8. Rule 13 of Madras High Court Rules, reads as follows:-

“13. Extraordinary original civil jurisdiction.- And We do further ordain that the said High Court of Judicature at Madras shall have power to remove, and to try and determine, as a court of Extraordinary Original Jurisdiction, any suit being or falling within the jurisdiction of any Court, whether within or without the Presidency of Madras, subject to its superintendence when the said High Court shall think proper to do so, either on the agreement of the parties to that effect, or for purposes of justice, the reasons for so doing being recorded on the proceedings of the said High Court.”

9. The provision empowers High Court to remove any suits pending on the file of subordinate Court and try for the purpose of rendering justice. In view of the reasons stated above, the suit in O.S.No.1385 of 2019 pending on the file of XIX Assistant City Civil Court, Chennai and the suit in O.S.No.4150 of 2020 pending on



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the file of XIX Assistant City Civil Court, Chennai are ordered to be transferred to this Court for joint trial along with C.S.No.212 of 2017. Accordingly, these applications are allowed.

07.09.2022

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