



A.NO.4744 OF 2022 IN C.S.NO.273 OF 2021

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N.SATHISH KUMAR, J.

This application has been filed by the applicants to withdraw the Suit in COS No.347 of 2022 from the file of Commercial Court, Egmore, Chennai and transfer the same to this Court for joint trial along with the Suit in C.S.No.273 of 2021, which has been filed for recovery of a sum of Rs.6 Crores from the defendants and the same is pending before this Court.

2.The crux of the allegation in the plaint is that under the pretext of the Dealership of Philips company, the defendants moved the plaintiffs and introduced certain supplies. However, after receipt of advance from the plaintiffs, the goods supplied have once again re-supplied and repeated advance amounts have been collected from the plaintiffs. It is the contention of the plaintiffs that though originally the goods are said to have been supplied by defendants 7 and 8 to the plaintiffs and those goods are once again to be supplied to the tenth defendant and again the same goods have to be supplied to the ninth defendant and again re-supplied to the defendants 7 and 8. Hence, the plaintiffs have proceeded to file the present Suit as the



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entire transaction is a result of fraud committed by the defendants.

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3. When the matter is pending before this Court, the seventh defendant has filed a Suit to recover certain amount on the basis of the supplies effected by him which is pending in COS No.347 of 2022 before the Commercial Court at Egmore, Chennai. Hence, it is submitted that unless both the Suits are tried in a same Court, there will be a conflicting decision in this regard. Hence, the present application has been filed by the applicants seeking withdrawal and transfer of the Suit in COS No.347 of 2022.

4. The only contention of the learned counsel for the seventh defendant in the Suit in C.S.No.273 of 2021 and the plaintiff in COS No.347 of 2022 is that the above Suit has been filed for recovery of amount on the basis of the supplies effected by the seventh defendant and it is an independent cause of action and it cannot be clubbed along with the present Suit and the same has to be tried separately. According to him, he is also a sufferer of the fraud committed by the defendants 1 to 3. Hence, the Suit in COS No.347 of 2022 shall be tried separately.

5. Considering the nature of the Suits filed and the entire



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transaction appears to be arising out of the same transaction namely the supply and advance paid by the plaintiffs and all the supplies and advances paid are inter-connected, this Court is of the view that to avoid the conflicting decisions, the Suit in COS No.347 of 2022 pending before the Commercial Court has to be tried along with the Suit in C.S.No.273 of 2021, so that there shall be uniformity in the decision, since the entire issue arises in this Suit is with regard to the alleged fraud committed by the defendants which has to be seen only in the trial. Therefore, there cannot be any different trial in different Court. When an element of fraud is involved in the entire transaction, this Court is of the view that there will not be any bar to have simultaneous trial.

6.Accordingly, the Suit in COS No.347 of 2022 pending on the file of Commercial Court at Egmore, Chennai is withdrawn and transferred to the file of this Court. However, it is made clear both the Suits can be tried separately and simultaneously before this Court so that there will be uniformity in the decision, which can be passed by this Court.



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7.This application is ordered accordingly.

19.10.2023

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