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A.No.1336 of 2024

in

C.S.No.133 of 2022

N.SATHISH KUMAR, J.

This application has been filed to transfer the Suit in O.S.No.1523 of 2022 pending on the file of learned XII Assistant Judge, City Civil Court, Chennai to the file of this Court to be tried along with C.S.No.133 of 2022.

2. The main ground to transfer the Suit is that the above suit namely O.S.No.1523 of 2022 is filed after the present Suit namely C.S.No.133 of 2022 filed by the plaintiff for framing a scheme in respect of the first defendant/Trust. However, Suit in O.S.No.1523 of 2022 has been filed as if the property belonging to the plaintiff absolutely. The learned counsel for the plaintiff mainly placed reliance on the Trust and contend that any property held in the name of the individual trustee should be treated as trust property. O.S.No.1523 of 2022 is based on the different cause of action and the parties are also different. The other suit is only for recovery of the individual property of the plaintiff. The said suit is in no way connected with the issues involved in the present suit. Hence, the only submission is that the said suit cannot be



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tried, jointly. The cause of action in the previous suit and this suit are different.

Hence, opposed this application.

3. Be that as it may, the fact remains that the present suit in C.S.No.133 of 2022 main allegations are relate to breach of trust in the first defendant/trust and the relief of permanent injunction for framing scheme. This suit has been filed previously before this Court on 28.10.2021. It appears as per the record only after the present suit was filed before this Court, O.S.No.1523 of 2022 is filed before the City Civil Court, Chennai claiming recovery of possession from the plaintiff alleging that it is the individual property.

4. Be that as it may, without going into the merit of this case, this Court is of the considered view that since the parties are on issue with regard to the Trust property, whether the plaintiff is removed from the Trust or the property is the Trust property is a matter of evidence. If the two different suits are tried in two different Courts, there may be conflict of Judgments in respect of the same issue. To avoid, this Court is of the considered view that no prejudice would be caused to the respondent/plaintiff in O.S.No.1523 of 2022, if the suit is withdrawn from the City Civil Court and transferred to this Court. Let it be



tried along with this suit simultaneously with the present suit.

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5. Registry is directed to post both the suits together before this Court for appropriate orders for simultaneous trial. The City Civil Court is directed to send all the records to this Court forthwith without any further delay.

Accordingly, this application is ordered. The Judgment copy to be communicated to the City Civil Court.

27.03.2024

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