



A.No.1636 of 2024 in C.S.No.535 of 2018

A.No.1636 of 2024 in C.S.No.535 of 2018

N.SATHISH KUMAR, J.

This application has been filed to transfer the suit in O.S.No.54 of 2016 pending on the file of the Principal District Judge, Vellore for joint trial along the suit in C.S.No.535 of 2018 pending on the file of this Court.

2. The main ground on which the transfer is sought is that since the suit filed before this Court is a suit for partition and third defendant has also been impleaded in the suit, the suit filed by the respondent for declaration before the Principal District Court, Vellore trial has to be tried along with the suit in C.S.No.535 of 2018 for effective adjudication since the parties are one and the same.

3. The learned counsel appearing for the respondents vehemently opposed this application and submitted that the applicants are also parties in O.S.No.54 of 2016 and they are arrayed as second and fourth defendants in the said suit and the said suit is in respect of title. In the above suit, the



A.No.1636 of 2024 in C.S.No.535 of 2018

evidence on the side of the plaintiff is already over and on the side of the defendants, D.W.1 has been examined in chief and the matter is posed for cross examination of D.W.1. Hence, the above suit cannot be transferred to this Court.

4. Whereas, the learned counsel appearing for the applicant would submit that since the third defendant has also been impleaded in this suit, both suits have to be tried together.

5. The suit in C.S.No.535 of 2018, which is pending before this Court, is a suit for partition. Whereas, the suit in O.S.No.54 of 2016 has been filed for the relief of declaration of title. Such being the case, this Court is of the view that when two suits are based on independent cause of action, though the parties are one and the same, the fact remains that the suit filed for declaration of title is pending from the year 2016 and substantial progress has also been made in that suit, evidence on the side of the plaintiff is over and matter is adjourned to 25.03.2024 for cross examination of the defendant side witness, at this stage, if the suit is transferred for joint trial, it will delay the suit. The present suit is filed only in the year 2018 after two



A.No.1636 of 2024 in C.S.No.535 of 2018

years of the earlier suit. This suit is for partition and the parties in this suit are aware of the previous suit filed in the year 2016. In such view of the matter, filing an application at this stage is not for the best interest of the parties and it will only delay the previous suit. In this suit written statement has also been filed. Any decision rendered in the former suit will have a bearing on the parties to the suit, Section 11 of Code of Civil Procedure will come into operation in such cases. Hence, I am of the view that if the suit of the year 2016 is transferred to this Court at this stage, it will only delay the suit where substantial progress has already been made. Hence, this application is liable to be dismissed.

6. Accordingly, this application is dismissed.

20.03.2024

vrc



WEB COPY



A.No.1636 of 2024 in C.S.No.535 of 2018

N.SATHISH KUMAR, J.

vrc

**A.No.1636 of 2024
in
C.S.No.535 of 2018**

20.03.2024