



A.No.5125 of 2024 in C.S. No.2 of 2024

DR. G. JAYACHANDRAN, J.

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This application is filed for transfer of the injunction suit in O.S.No.9405 of 2021 pending before the XXIII Assistant City Civil Court, Chennai, to the High Court of Madras to be tried along with C.S. No.2 of 2024 which is filed for the relief of recovery of money based on mortgage.

2. In both the suits, issues have been framed and examination of witnesses is to be commenced. The parties in both the suits are one and the same.

3. The contention of the applicants/plaintiffs in support of their transfer application is that the defendants borrowed money after creating a simple mortgage by deposit of title deeds in respect of the schedule property mentioned in C.S. No.2 of 2024. When it was brought to the notice of the applicants/plaintiffs that the worth of the property mortgaged may not meet out the debt/liability of the defendants and the defendants have yet another property, to protect their interest, the applicants/plaintiffs first instituted the suit for injunction in O.S.No.9405 of 2021 on the file of the XXIII Assistant City Civil Court, Chennai, to restrain the defendants from alienating the other property of the defendants till the discharge of the debt under the mortgage; while filing the former suit, they have filed an application under Order II Rule 2 of CPC narrating the facts and reserving the right to file a suit for recovery of money based on the mortgage.



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4. Since both the suits are ripe for examination of witnesses after framing of issues, the learned counsel for the applicants/plaintiffs submitted that if both the suits are tried together, a composite order could be passed to avoid multiplicity of proceedings.

5. The learned counsel for the defendants/respondents submitted that the injunction suit in respect of different property filed earlier need not be clubbed with the suit filed later for mortgage based on the registered mortgaged deed.

6. This Court, after considering the rival submissions, feels that it is appropriate to allow this application for transfer to avoid multiplicity of proceedings and the likelihood of conflicting verdicts in the two suits.

7. Hence, this application is allowed.

The Registry is directed to call for the entire records pertaining to O.S.No.9405 of 2021 for the purpose of being tagged along with C.S. No.2 of 2024 and after receipt of the said original records, both the matters shall be posted before the learned Additional Master - I for examination of witnesses on 06.01.2025.

25.11.2024

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