

ORDERS ON I.A.s filed U/S.151 of CPC.

3rd defendant counsel has filed this I.A U/S.151 of CPC and prayed the court to pass an order to club O.S.No. 25874/2010 with O.S.No. 6468/2013 and to permit the parties to lead common evidence.

In the affidavit it is mentioned that he is the 3rd defendant in O.S.No. 25874/2010, plaintiff in O.S.No. 6800/2011 and 1st defendant in O.S.No. 6468/2013. It is stated that O.S.No. 6800/2011 has already been clubbed with O.S.No. 25874/2010.

Parties and properties in O.S.No. 25874/2010 and in O.S.No. 6800/2011 are one and the same. Reliefs sought in both suits are similar. Parties in both suits are one and the same.

It is mentioned that in contempt proceedings initiated by him against the plaintiffs before the Hon'ble High Court of Karnataka in CCC No.6/2015. Plaintiffs and other defendants have under took to file an application before the competent court for transfer of O.S.No. 6468/2013 to this court, to facilitate joint trial in all 3 cases. On the basis of that undertaking, Hon'ble High Court of Karnataka disposed of the CCC No.6/2015. Later, as per the order passed by the Hon'ble Prl. City Civil & Sessions Judge, O.S.No. 6468/2013 has been transferred to this court, to avoid multiple proceedings and to avoid

conflicting judgment. Hence this application, praying the court to club this suit with O.S.No. 6468/2013 and to permit the parties to lead common evidence.

Plaintiff in O.S.No. 6800/2011 (3rd defendant in O.S.No. 25874/2010) has filed similar application in O.S.No. 6800/2011 and prayed the court to club O.S.No. 6800/2011 with O.S.No. 6468/2013 and to direct the parties to lead common evidence in all these 3 cases.

1st defendasant in O.S.No. 6468/2013 i.e. (3rd defendant in O.S.No. 25874/2010) has filed similar application in O.S.No. 6468/2013 and prayed the court to club O.S.No. 6468/2013 with O.S.No. 25874/2010 and with O.S.No. 6800/2011 (clubbed matters).

In the affidavit, 1st defendant has reiterated averments made in the affidavits enclosed to I.A.No.1/2016 in O.S.No. 25874/2010 and in the affidavit enclosed to I.A.NO.1/2016 filed in O.S.No. 6800/2011 and prayed the court to club this matter with above mentioned suits and to permit the parties to lead common evidence in O.S.No. 25874/2010.

Plaintiffs in O.S.No. 25874/2010, defendants in O.S.No. 6800/2011 and plaintiffs in O.S.No. 6468/2013 have filed common objections to all those 3 I.A.s filed U/S.151 of CPC and it is contended that the clubbing applications filed U/S.151 of CPC, are not maintainable in law and those 3 suits cannot be clubbed together on the ground that O.S.No. 25874/2010 has been filed for partition

and the suit filed in O.S.No. 468/2013 is for different contests. It is relevant to note that plaintiffs in O.S.No. 25874/2010 and defendants in O.S.No.6800 /20111 have reiterated and reproduced the prayers made in O.S.No. 6468/2013 in their objection statement and they have prayed the court to dismiss the application on the ground that prayers in those 3 suits are different. Reliefs sought in those 3 suits are different. On these grounds, plaintiffs have contended that the above mentioned suits cannot be clubbed and they have prayed the court to conduct independent trial in O.S.No. 6468/2013 and ultimately prayed the court to reject the I.A.s filed U/S.151 of CPC

Heard oral arguments and then perused the pleadings, available oral and documentary evidence placed on record, in the light of averments made in the affidavits enclosed to I.A.s and objection there to.

The points arisen for the consideration of the court:

- (1) Whether I.A.s filed U/S.151 of CPC in the above 3 suits are deserves to be clubbed for common trial.
- (2) What order?

Based upon pleadings and documents placed before the court, this court proceed to answer above points as under:

Point No.1 : In the affirmative.

Point No.2 : As per final order for the following:

REASONS

POINT NO.1 : On careful scrutiny of pleadings in O.S.No. 25874/2010, 6800/2011 & pleadings in O.S.No. 6468/2013, it is ascertained that parties shown in the cause title and properties shown in the schedules of those 3 suits are one and the same.

It is relevant to note that during the pendency of O.S.No. 25874/2010 and O.S.No. 6800/2011, at the request of parties and their respective counsels, above mentioned suits were clubbed and an order has been passed, directing both side parties to lead common evidence in O.S.No. 25874/2010. Accordingly, both suits were clubbed. Plaintiff in O.S.No. 25874/2010 has been examined as P.W.1. At this stage, parties have moved an application before the Hon'ble prl. City Civil & Sessions Court, Bangalore and they have requested the court to transfer O.S.No. 6468/2013 to this court, based upon the undertaking given by the plaintiffs in O.S.No. 25874/2010, before the Hon'ble High Court of Karnataka in CCC No. 6/2015, to prevent multiplicity of proceedings and to avoid conflicting judgment. Based upon the submission made by both side parties, Hon'ble Prl. City Civil & Sessions Court, Bangalore, allowed the transfer application and transferred the connected O.S.No. 6468/2013 to this court with a direction to dispose of the same in accordance with law. In the meanwhile, 3rd defendant in O.S.No. 25874/2010 has filed 3 independent I.A.s in above 3 suits U/S.151 of CPC and prayed the court to club O.S.No. 6468/2013 with other two suits, which were already clubbed.

On careful scrutiny of averments made in the affidavit enclosed to I.A.s in the light of pleadings of parties in above 3 suits, this court has ascertained that parties in the above 3 suits are common, subject matter

involved in all those 3 suits are common and all those properties are intrinsically interrelated with each other. Properties involved in the above 3 suits are all ancestral joint hindu family properties of plaintiffs and defendants and all of them have interest over the suit properties. In the above circumstances, the application filed by 3rd defendant in O.S.No. 25874/2010 U/S.151 of CPC in the above 3 suits for clubbing, are deserves to be allowed. So that common judgment can be passed in all those three connected suits and it will prevent multiplicity of proceedings and conflicting judgments. In the interest of justice and to save the court time, this court proceed to hold that I.A.s filed by 3rd defendant in O.S.No. 25874/2010 U/S.151 of CPC for clubbing of suits are deserves to be allowed. Accordingly, this court proceed to answer point No.1 in affirmative.

POINT NO.2 : Based upon precise discussion held while answering point No.1 and for the reasons there under, this court proceed to pass the following:

ORDER

I.A.s filed by 3rd defendant in O.S.No. 25874/2010, plaintiff in O.S.No. 6800/2011 and 1st defendant in O.S.No. 6468/2013, U/S.151 of CPC are allowed.

O.S.No.6468/2013 has been clubbed with connected O.S.No. 25874/2010 and O.S.No. 6800/2011.

Parties in the above 3 suits are hereby directed to lead common evidence in O.S.No. 25874/2010.

For plaintiff's further evidence call on 25/7/2016.

PO, CCH-3.

