

04.02.2025:

Case called.

ORDER ON MEMO DATED 20.11.2024

Advocate for the plaintiff in O.S.No.2897/2024 and advocate for defendant Nos.2 & 3 in O.S.No.1453/2024 filed memo in both the cases and submitted that, the Hon'ble High Court while disposing MFA No.6063/2024 has directed the Registrar, City Civil Court, Bengaluru, to list both the cases before the same Court, so that both suits could be disposed within the time frame provided. Further submitted that, O.S.No.1453/2024 is earlier suit and after framing of issues, O.S.No.1453/2024 may be listed for evidence.

2. Advocate for the plaintiff in O.S.No.1453/2024 and advocate for defendants in O.S.No.2897/2024 filed objections to the memo in both the cases and extracted the portion of the order of the Hon'ble High Court in MFA No.6063/2024 and contended that, the Hon'ble High Court has not directed this Court to club both the suits. Defendant Nos.2 and 3 in O.S.No.1453/2024 and plaintiff in O.S.No.2897/2024 are shying away from leading evidence, hence, prayed to reject memos.

3. Heard both sides. Perused the record. Learned counsel for the plaintiff in O.S.No.2897/2024 and defendant Nos.2 and 3 in O.S.No.1453/2024 in these memos has not specifically used the word "club both the suits", but during the arguments, submitted that, both the suits are regarding the same suit schedule property and between the same parties, hence, to save the time of the Court and effective adjudication, it is necessary to club the suits and dispose by common judgment.

4. Learned counsel for the plaintiff in O.S.No.1453/2024 and defendants in O.S.No.2897/2024 has submitted that, the Hon'ble High Court in its order has not specifically directed to club both the suits, hence, prayed to reject the memos.

5. O.S.No.1453/2024 was initially filed for specific performance against the defendant No.1 only. The suit schedule property is the land bearing Sy.No.129/1C measuring 4 acres 39 guntas of Hoodi Village. As per the plaintiff, defendant No.1 agreed to sell the suit schedule property as per the agreement of sale dated 13.03.2023.

6. It is the case of the plaintiff in O.S.No.2897/2024 that, the same suit property i.e., the land bearing Sy.No.129/1C measuring 4 acres 39 guntas of Hoodi Village, was agreed to sell in favour of this plaintiff and her company i.e., defendant Nos.2 and 3 in O.S.No.1453/2024, by the defendant No.1 in O.S.No.1453/2024 under the registered agreement of sale dated 07.11.2022. Based on the said agreement of sale, on 13.03.2024, Smt.D.A.Teleshwari, who is 1st defendant in O.S.No.1453/2024 has sold the suit property under the registered sale deed for valuable consideration and put this plaintiff in possession of the suit schedule property, hence, O.S.No.2897/2024 is filed for injunction against the plaintiffs in O.S.No.1453/2024.

7. Since in both the cases, parties and the suit schedule property are same, if the evidence in both the cases is recorded separately, same questions will be put to the witnesses by the other side and the same documents will have to be marked in both the cases. Hence, to avoid confusions, if both the suits are clubbed and common evidence is recorded, it will help the Court to decide the matter effectively and it will also save the precious time of the Court. Hence, in the considered opinion of this Court, it is proper and necessary to

club both the suits for effective adjudication. Accordingly, I proceed to pass the following:

ORDER

O.S.No.2897/2024 is clubbed with
O.S.No.1453/2024.

Plaintiffs in O.S.No.1453/2024 shall
commence the evidence.

In view of direction of Hon'ble High Court
of Karnataka, both parties shall co-operate for
disposal of the case.

For evidence.

Call on 05.02.2025.

(B.P.Devamane)

I Addl. City Civil & Sessions Judge,
Bengaluru.