

OS.No.16/2020

ORDER ON IA.No.VI

The application U/sec. 151 of CPC filed by the plaintiff to club this suit along with OS.No.29/2019. The said application is supported by an affidavit sworn by plaintiff.

On the other hand, objection filed by the defendant.

Heard both side perused material on record.

It is submitted by the plaintiff that the defendant filed OS.No.29/2019 for specific performance of contract. The suit schedule property is ancestral properties of plaintiff and defendant No.1 to 4. The defendant No.1 to 4 executed registered sale agreement in favour of defendant No.5 and she has filed OS.No.29/2019 colluding with defendants. After came to the knowledge of plaintiff they

OS.No.16/2020

filed this suit for partition. Hence, in order to avoid conflicts judgment prays to club both suits and to lead common evidence by allowing application.

On the other hand, defendants submits application is not maintainable. In order to drag the suit this application is filed. In both suits, prayer are different. Hence, suit cannot be clubbed. Hence, prays to dismiss the application.

It is to be noted this suit is filed for partition and OS.No.29/2019 filed for specific performance of contract. On perusal of the both pleadings in both suits, it is to be noted that plaintiff in OS.No.29/2019 is also defendant No.5 in this suit. The defendant No.5 and plaintiff in OS.No.29/2019 purchase the one of the schedule property and filed suit for specific performance of contract. Further, it is to be noted that the plaintiff claiming right over the suit schedule

OS.No.16/2020

property on ground that suit schedule properties are ancestral and joint family properties. Under such circumstances, when the plaintiff claiming right over the schedule properties in order to avoid multiplicity of proceedings and conflicts of judgment, it is just and necessary to club the suit, in the interest of justice of equity. Hence, I proceed to pass the following:

ORDER

Application U/o 151 of CPC filed by the plaintiff is hereby allowed.

OS.No.29/2019 is clubbed with this suit and common evidence will be recorded in this suit and common judgment will be passed in this suit.

Call on 17/09/2021

**Senior Civil Judge & JMFC.,
Hosadurga.**