

ORDERS ON I.A.No.II

The defendant No.1 has filed the application u/s.151 of CPC prays to order to club the suit with O.S.No.47/2019 pending on the file of this court.

2. In support of the application, the defendant No.1 filed affidavit, submitted plaintiff has filed the suit for permanent injunction against the defendants with respect to property bearing Sy.No.434 of Mavinakere village alleging defendant No.1 being managing the land of Sujit Shenoy is trying to trespass on the plaintiff's land by removing the fence. Further, she alleged the land of Sujit Shenoy I.e., Sy.No.602 is located to the east and south of her land. Sujit Shenoy represented by his GPA holder, the defendant No.1 herein filed O.S.No.47/19 with respect to Sy.No.602/1 of Mavinakere village alleging the plaintiff herein is encroaching upon his land by removing the fence. The parties in O.S.No.47/19 and this suit are same and relied upon same documents in both the suits. Hence, it is just and necessary to

club the matter. Accordingly, prays to allow the application.

3. The advocate for plaintiff filed objection, submitted the application is not maintainable either in law or on facts. The properties subjected in the suit are different and parties are different. Hence, prays to reject the application.

4. On the basis of the above, point for consideration is that:

Whether the defendant No.1 has made out sufficient cause to club the suit with O.S.No.47/2019?

5. Heard arguments. Perused the materials on record.

6. My findings on the above point is in the "**Negative**" for the following

REASONS

7. The plaintiff herein has filed the suit against Kantharaju and Ganesha for relief of permanent injunction restraining them from interfering with her peaceful possession over Sy.No.434 measuring 3

acres 35 guntas of Mavinakere village. It is relevant to note the defendant No.1 Kantharaju herein is the GPA holder of plaintiff in O.S.No.47/2019.

8. In O.S.No.47/2019 one Sujit Shenoy represented by GPA holder Kantharaju, who is defendant No.1 in this suit filed the suit for permanent injunction restraining the plaintiff herein from interfering with peaceful possession over Sy.No.602/1 measuring 12 guntas.

9. On perusal of plaint of O.S.No.46/2019 and 47/2009 the properties subjected to suit in both the cases are located in adjacent. The plaintiff in O.S.No.47/2017 disputed the southern boundary of Sy.No.434 and alleged plaintiff herein claiming in excess of land, which lead them to the suits. However, the parties in both suit are different and subject matter is different. Hence, I do not find any merits to club the suits for common trail Accordingly, I answer the above point in the "**Negative**" in the result, proceed to pass the following:

ORDER

The I.A.No.II filed by the defendant No.1 u/s.151 of CPC is hereby rejected.

Call on for plaintiff evidence
by: **17.12.2021.**

Sd/-

(J. KRISHNA)
C/C.ADDL. CIVIL JUDGE & JMFC.,
MUDIGERE.