

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND J.M.F.C
SEDAM**

PRESENT: SRI. VIJAYKUMAR S. JATLA

**B.Sc., LL.B.
Senior Civil Judge & JMFC., Sedam**

DATED THIS THE 23rd DAY OF MARCH-2021.

OS.No.62/2018

Plaintiff : Dalmia Cement(Bharat) Ltd.

Versus

Defendants : Smt. Kantabai & Others.

Order on I.A.No-5 U/Sec 151 of CPC filed by Defendant No.1

This is an interlocutory application is filed by the Defendant No.1 seeking to club the above said case with OS No.21/2020 to file of this Hon'ble court for adjudicate the matter once for all.

2. Advocate for Defendant No.1 contended that, the plaintiff has filed a suit for specific performance of contract regarding suit land against the defendants. The defendant No.1 and her children are filed the suit for partition and separate possession and declaration and injunction and rectification of revenue records regarding suit land and

other properties against the above said plaintiff and other defendants of the case, the above said case registered as O.S No.21/2020 file of this Hon'ble court. The suit land in the above case is involved in O.S No.21/2020 present plaintiff is a one of defendant in the above case regarding same suit property, the document which are in dispute in the above case is involved in O.S No.21/2020 of the case, therefore clubbing the both cases for adjudicate the matter is very necessary. It will not change the nature of case to avoid the multiplicity of litigation clubbing the both cases is very necessary. The suit properties are immovable property, the valuable rights of defendant No.1 are involved in the both cases, if it is not allowed heavy and irreparable loss will be caused to the defendant No.1 and her family members. If it is allowed no loss will be caused to other side.

3. The plaintiff filed objections and contended that, The application filed by defendant is not all maintainable. This present suit is for specific performance of the basis of agreements for sale. The defendant filed partition suit against the Basamma in O.S No.21/2020. That the subject matter of both suits are defendant and the reliefs claimed in both suits are different. The matter in issues of both suits are different. The contents of I.A are denied specifically and

reasons are incorrect. Hence, prayed that I.A.No.5 filed by the defendant No.1 may be rejected.

4. On the basis of the above pleadings and on hearing both sides, the following points arise for my consideration.

- 1) Whether the Defendant No.1 has made out grounds to allow I.A.No.V U/Sec. 151 of CPC ?
- 2) What order?

5. My findings on the above points are as under:

Point No:1 : In the Negative.

Point No.4: As per final order for the following:

REASONS

6. **Point No.1:-** The case of the plaintiff and defendant No.1 is as discussed. The plaintiff filed suit for specific performance of contract against the defendants in respect of the suit schedule property. This I.A No.V U/Sec. 151 of CPC filed by the LR's of Defendant No.1 for clubbing the present suit with O.S.No.21/2020 filed by the defendant No.1 for partition and separate possession. The suit schedule property is different and property in partition suit are different. The defendant No.1 filed suit for partition and the properties mentioned the partition suit are different then that of the property involved in the

present suit and the cause of action are also different one. The issues involved in the present suit are different as that of the issues of O.S.No.21/2020. In the present suit evidence has already been commenced and PW-1 is examined and posted for cross of PW-1. Hence there are no valid and reasonable grounds made out by the defendant No.1 to allow the application. The present suit is of the year 2018 and defendant No.1 filed the O.S.No.21/2020 in the year 2020, there are no substantial grounds made out by the defendant No.1 in respect of clubbing of the suit as prayed in I.A.5. In the light of the above reasons. I answer Point No.1 in the Negative.

7. **Point No.2:-** As I have answered point No. 1 in the Negative for the foregoing reasons, I proceed to pass the following:

ORDER

IA-V Under Section 151 of CPC filed by the
defendant No.1 is rejected.

(Dictated to the stenographer directly on computer and corrected by him and then pronounced by me, in the open Court on this the 23rd day of March-2021, at Sedam)

Senior Civil Judge & JMFC,
Sedam.

(Order pronounced in the open court vide
separate order)

ORDER

IA-V Under Section 151 of CPC filed by the
defendant No.1 is rejected.

For objections to I.A.No.4.

Call on : 30-03-2021.

Senior Civil Judge & JMFC,
Sedam.