

S. Benziger Vs. Licy and ors.

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SooperKanoon Citation : sooperkanoon.com/796368

Court : Chennai

Decided On : Nov-12-1987

Reported in : (1988)1MLJ131

Appellant : S. Benziger

Respondent : Licy and ors.

Judgement :

ORDER

K.M. Natarajan, J.

1. This revision is directed against the order passed by the Court below refusing to stay the trial of the suit in O.S. No. 56 of 1984, till the disposal of O.S. Nos. 450 of 1984 and 466 of 1984 under Sections 10 and 151, C.P.C. O.S. No. 450 of 1984 and 466 of 1984 pending before the Principal District Munsif's Court, Kuzhithurai. It is seen that O.S. No. 450 of 1984 is filed for the relief of injunction restraining the defendants from altering the existing shed. O.S. No. 466 of 1982 is filed for the specific performance of the alleged release in favour of the petitioner herein. On the other hand, O.S. No. 56 of 1984 is filed for general partition of the entire properties and other reliefs.

2. After hearing the arguments on both sides and on going through the order passed by the lower Court, I find that there is absolutely no common issue involved in the earlier suits which would warrant the stay of the subsequent suit.

The question to be decided in the partition suit is quite different from the one to be decided in the other two suits. None of the ingredients which are necessary for the stay and for invoking the provisions of Section 10, C.P.C., had been established and as such, I do not find any merit in the revision petition. I find that the order passed by the Court below is supported by convincing reasons and in any event, it does not suffer from any illegality or infirmity whatsoever to interfere with the said order. Accordingly, this revision petition is dismissed. However, if ultimately, the petitioner succeeds in his quit O.S. No. 466 of 1984 and gets a release deed from the defendants, that can be worked out in the partition suit while allotting the shares to the respective parties since the petitioner also is a party to the suit, i.e., O.S. No. 56 of 1984. The learned Subordinate Judge, Kuzhithurai is directed to give top priority to O.S. No. 56 of 1984 and dispose of the same as expeditiously as possible and in any event within four months from the date of the receipt of this order. No costs.