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Tr.C.M.P.(MD)No.51 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Tr.C.M.P.(MD)No.51 of 2023

and

C.M.P.(MD)No.1204 of 2023

Thangamariappan, S/o.Chinna Gurusamy

.. Petitioner

Versus

1.Perumalsamy, S/o.Marimuthu

2.Velammal, W/o.Sundaraj

3.Veerammal, W/o.Veerapandiyan

.. Respondents

Prayer :- Petition filed under Section 24 of C.P.C., to withdraw the case in O.S.No. 82 of 2022, on the file of the District Munsif Court, Sattur and transfer the same to the District Munsif Court, Kovilpatti.

For Petitioner : Mr.M.Prabu

For Respondents : Ms.Porkodi Karnan
for M/s.Polax Legal Solutions

ORDER

The petitioner is the plaintiff before the District Munsif Court, Sattur, in O.S.No.51 of 2023. The said suit has been filed for a relief of mandatory injunction.



2. The petitioner has filed this Transfer Civil Miscellaneous to transfer the said suit pending on the file of the District Munsif Court, Sattur, to the District Munsif Court, Kovilpatti.

3. The averment in the affidavit is that the nephew of the respondents one Ponraj is working as Assistant Public Prosecutor before the District Munsif Court, Sattur, and that he is using his influence in the Police Station and with the Members of the Bar, as a result of which, the petitioner was unable to engage any counsel from the Sattur Bar. Therefore, engaged a counsel from Kovilpatti Bar Association. The relevant portion of the averments in the affidavit filed by the petitioner read as under:-

"5. I respectfully state that therefore, I made a complaint before the Government authorities for to stop the issuance of house tax receipt in the respondents' name and electricity connection. Therefore on 29.11.2020, the respondents are attacked me with dire consequences. Thereafter, I lodged a complaint before the Sattur Police Station against the respondents on 01.12.2020, the FIR was registered against the respondents in Crime No.588 of 2020 offences U/s.294(b), 324, 427 & 506(ii) of IPC, but, till now no action taken by the Sattur Police Station officials. Because, one Ponraj is working as Additional Public Prosecutor, Learned Judicial Magistrate Court, Sattur. He is relative of the respondents and he used his influence to the above police station and for not to any steps in the above crime number.

6. I respectfully state that therefore, I decided to file a suit against the respondents and engaged the Counsel at Sattur Bar Association, but, the



said Ponraj told that to all the Advocates of Sattur Bar Association not to file any suit on my side and therefore, none of the advocates were not ready to file a suit in my favour. Therefore on 01.11.2021, I made a complaint before the Hon'ble Madurai Bench of Madras High Court against the Ponraj.

7. I respectfully state that subsequently, the present suit filed by myself with help of Kovilpatti Advocate. Thereafter, the said Ponraj instructed to the Filing Section not to number my suit. Therefore, the Section Officers are return my suit several times. Subsequently, I represented the suit with necessary documents and after then the suit was numbered. After numbering the suit, the summons were issued to the respondents. Now, the said Ponraj given many troubles to me, and he misused his power to the Lower Court."

4. That apart, the learned counsel for the petitioner has also referred to a complaint sent to the Hon'ble Administrative Judge of this Court, wherein he has made the similar averments, which read as under:-

"தன் சொந்த இடத்தில் பணிநியமனம் பெற்று அரசு வழக்கறிஞராக பணிபுரிந்து வரும் S.பொன்ராஜ் M.A.B.L., அவர்கள் இந்த வழக்கில் சம்மந்தப்பட்டவரும் என் மீது தாக்குதல் நடத்தியவருமான மா.பெருமாள்சாமி அவர்களின் தங்கை மகன் ஆவார்.

தனது தாய்மாமனுக்கும், உறவினர்களுக்கும் ஆதரவாகவும் செயல்பட்டது மட்டுமல்லாமல் அனைத்து நடவடிக்கைகளிலும் தலையீடு செய்து வருவதோடு மட்டுமல்லாமல் வழக்கறிஞர் சங்கத்தின் மூலமாக பேசி எனக்காக வழக்கறிஞர்கள் யாரும் ஆஜராக விடாமல் தடுத்தும் வருகிறார். இதில் சமாதானம் ஏற்படாததால் நிலத்தை தன் பெயரில் பத்திர பதிவு செய்துள்ளார்."



5. This Transfer Civil Miscellaneous Petition is opposed by the learned counsel for the respondents on the ground that the respondents are senior citizens. It is submitted that the suit has been filed for mandatory injunction and the property is located within the Sattur Taluk and that the averments in the affidavit and also in the copy of the representation dated 26.07.2021, which is said to have been sent to the Hon'ble Administrative Judge of this Court, contain bald allegations. The said Ponraj is a Government employee and he never worked at Sattur and he is also not the Member of the said Bar and the post of Assistant Public Prosecutor is transferable. It is submitted that the present Transfer Civil Miscellaneous Petition has been filed only to harass the respondents.

6. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

7. The distance between the District Munsif Court at Sattur and the District Munsif Court at Kovilpatti is hardly $\frac{1}{2}$ an hour travel by road, even according to the learned counsels. Therefore, the counsel, who appears for the petitioner before the District Munsif Court, Sattur, can conduct the case. In case, any untoward incident is noticed, it is always open for the petitioner to move appropriate application for protection and for direction from the Court.



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8. In my view, there is no case made out for transfer of the suit in O.S.No.82 of 2022, pending on the file of the District Munsif Court, Sattur to the file of District Munsif Court, Kovilpatti, based on the position held by the said Ponraj as Assistant Public Prosecutor. Hence, this Transfer Civil Miscellaneous Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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05.04.2023

To

- 1.The District Munsif,
Sattur.
- 2.The District Munsif,
Kovilpatti.



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C.SARAVANAN, J.

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Order made in
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