

Tr.C.M.P(MD).No.259 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 02.07.2026

PRONOUNCED ON :10.07.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD).No.259 of 2026

and

C.M.P(MD)No.6784 of 2026

Amala

: Petitioner / Respondent

Vs.

Kulasamuthu

: Respondent/Appellant

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the appeal in A.S.No.11 of 2025 from the file of the Principal District Court, Tenkasi and transfer the same to the file of the Principal District Court, Tirunelveli.

For Petitioner : Ms.Lakshmi Gopinathan
for Mr.Indhira

For Respondent : Mr.N.Ganagasapapathy



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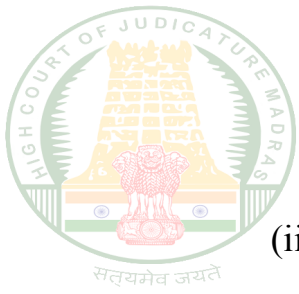
ORDER

The Transfer Civil Miscellaneous Petition has been filed seeking orders to withdraw the appeal in A.S.No.11 of 2025 from the file of the Principal District Court, Tenkasi and transfer the same to the file of the Principal District Court, Tirunelveli.

2. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent and perused the materials available on record.

3. The facts not in dispute are

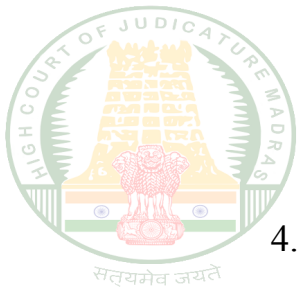
(i) The petitioner as plaintiff filed a suit in O.S.No.55 of 2022, claiming the relief of specific performance against the respondent/defendant. After full pledged trial, the suit was decreed as prayed for, vide judgment and decree dated 18.07.2024. Challenging the said judgment and decree, the respondent/defendant preferred an appeal in A.S.No.11 of 2025 and also filed an application in I.A.No.3 of 2025 for reception of additional evidence under Order 41 Rule 27 C.P.C.



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(ii) The learned Principal District Judge, Tenkasi, after hearing the appeal along with the application for reception of additional evidence, passed a common judgment and order dated 09.01.2026, receiving the additional evidence, set aside the judgment and decree of the trial Court. Aggrieved by the said judgment and decree, the petitioner/plaintiff preferred a Second Appeal in S.A.(MD)No.118 of 2026 and a learned Judge of this Court, vide judgment dated 30.04.2026 allowed the Second Appeal and remitted the matter back to the first appellate Court, enabling the plaintiff to cross-examine the defendant on the additional documents Exs.B.2 to B.10 and directed that the cross-examination shall be completed within a period of four weeks from the date of receipt of a copy of the said judgment and the first appellate Court was directed to hear the arguments afresh and decide the first appeal on its own merits within a period of two months thereafter.

(iii) In pursuance of the directions of this Court, the first appeal in A.S.No.11 of 2025 was restored to file. Pending first appeal, the petitioner/plaintiff has filed the present transfer petition seeking transfer of the appeal from the Principal District Court, Tenkasi to the file of the Principal District Court, Tirunelveli.



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4. The reasons canvassed in the affidavit filed in support of the transfer petition is that the first appellate Court ought to have granted an opportunity to the plaintiff to rebut the additional evidence produced by the defendant, that the first appellate Court, in the absence of any pleadings, permitted the defendant to adduce further evidence and that is why the matter was remitted back to the first appellate Court by this Court, that the petitioner/plaintiff has a reasonable apprehension due to the peculiar circumstances that she may not get a fair and impartial adjudication before the Principal District Court, Tenkasi, that the circumstances, conflict of interest and conduct surrounding the proceedings have created genuine apprehension in her mind and that for ensuring fair trial, impartial adjudication and in the interest of justice, it has become necessary that the appeal proceedings may be transferred and that no prejudice would be caused to the respondent if the transfer is ordered.

5. The learned Counsel for the petitioner would mainly contend that the first appellate Court had made personal comment on the conduct of the plaintiff and that since the remitted first appeal is before the very same Judge, who had decided the first appeal earlier, will not get fair and impartial adjudication and that is why the plaintiff was constrained to file the above petition.



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6. The learned Counsel for the respondent/defendant would submit that the learned first appellate Judge has nowhere made any personal comments on the conduct of the plaintiff, that the first appellate Court considering the evidence available and also taking note of the legal position, has observed that the plaintiff by suppressing the other legal proceedings, has come with unclean hands and that therefore, the plaintiff was not entitled to the relief of specific performance.

7. As rightly pointed out by the learned counsel appearing for the respondent/defendant, the learned First Appellate Judge has nowhere made any personal remarks against the plaintiff. The observations relied upon by the petitioner relate only to the suppression of material facts and the application of the equitable doctrine of clean hands while considering the plaintiff's entitlement to the discretionary relief of specific performance under the Specific Relief Act. Such observations cannot, by any stretch of imagination, be construed as personal remarks. On the contrary, the First Appellate Court was legally obliged to examine the conduct of the plaintiff while deciding his entitlement to the discretionary relief of specific performance.



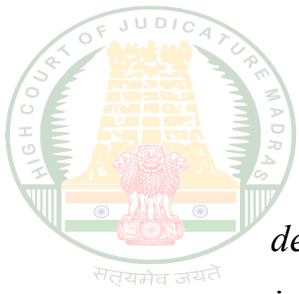
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8. The above findings are purely judicial findings rendered on the basis of the pleadings, oral and documentary evidence available on record and the settled principles of law. Merely because such findings are adverse to the plaintiff, they cannot be construed as personal remarks or as indicative of any personal bias or prejudice against the plaintiff.

9. The learned Counsel for the petitioner would rely on a decision of the Hon'ble Supreme Court in ***Subramaniam Swamy Vs. Ramakrishna Hegde*** reported in ***(1990)1 SCC 4***, wherein the Hon'ble Apex Court has observed as follows:

“ The cardinal principle for the exercise of power under this section is that the ends of justice demand the transfer of the suit, appeal or other proceeding. The question of expediency would depend on the facts and circumstances of each case but the paramount consideration for the exercise of power must be to meet the ends of justice. It is true that if more than one court has jurisdiction under the Code to try the suit, the plaintiff as dominus litis has a right to choose the Court and the defendant cannot demand that the suit be tried in any particular court convenient to him. The mere convenience of the parties or any one of them may not be enough for the exercise of power but it must also be shown that trial in the chosen forum will result in



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denial of justice. Cases are not unknown where a party seeking justice chooses a forum most inconvenient to the adversary with a view to depriving that party of a fair trial. The Parliament has, therefore, invested this Court with the discretion to transfer the case from one Court to another if that is considered expedient to meet the ends of justice. Words of wide amplitude--for the ends of justice--have been advisedly used to leave the matter to the discretion of the apex court as it is not possible to conceive of all situations requiring or justifying the exercise of power. But the paramount consideration must be to see that justice according to law is done; if for achieving that objective the transfer of the case is imperative, there should be no hesitation to transfer the case even if it is likely to cause some inconvenience to the plaintiff. The petitioner's plea for the transfer of the case must be tested on this touch-stone.

9. The learned counsel for the respondent invited our attention to the observations of this Court in [Maneka Sanjay Gandhi & Anr. v. Rani Jethmalani](#), [1979] 2 SCR 378. In that case the petitioner figured as an accused in the prosecution launched against her and another by the respondent for an offence of defamation in the Court of Metropolitan Magistrate, Bombay. This Court was approached for the transfer of the Criminal Case from Bombay to Delhi. While declining the request for transfer this Court observed as under:

"Assurance of a fair trial is the first imperative of dispensation of justice and the central criterion for the Court to consider when a motion for transfer is made is not the hypersensitivity or



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relative convenience of a party or easy availability of legal services or like mini-grievances. Something more substantial, more compelling, more imperilling, from the point of view of public justice and its attendant environment, is necessitous if the Court is to exercise its power to transfer. This is the cardinal principle although the circumstances may be myriad and vary from case to case. We have to test the petitioner's grounds on this touchstone bearing in mind the rule that normally the complainant has the right to choose any court having jurisdiction and the accused cannot dictate where the case against him should be tried. Even so, the process of justice should not harass the parties and from that angle the court may weigh the circumstances."

10. The legal position laid down in the above decision is well settled. However, the same has no application to the facts of the present case, as the petitioner has failed to establish any reasonable or bona fide apprehension that justice would not be done if the appeal continues before the same learned First Appellate Judge.

11. The mere fact that the same learned first appellate Judge, whose earlier judgment was set aside by this Court in the Second Appeal and the matter remanded for a limited purpose, is continuing to hear appeal, cannot by



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itself give rise to a reasonable apprehension of bias. A remand ordinarily restored to the proceedings to the same Court, unless the appellate Court directs that the matter may be heard by another Court or Judge.

12. It is well settled that adverse observations having been recorded in a judicial order do not by themselves, constitute a valid ground for transfer and a transfer can be ordered only when a reasonable and bonafide apprehension in the minds of a party that justice would not be done in the matter continues before the same Court.

13. Mere dissatisfaction with, or disagreement against, the findings recorded in an earlier judgment cannot, by itself, constitute a ground for transfer. In the case on hand, as already pointed out, the remand was ordered only for a limited purpose, namely, to afford an opportunity to the plaintiff to cross-examine the defendant's witness with reference to the additional documents received in evidence by the First Appellate Court and thereafter to dispose of the appeal afresh in accordance with law. There is absolutely nothing on record to indicate that the learned First Appellate Judge has any personal interest in the matter or has exhibited any prejudice or bias against the plaintiff. This Court, therefore, has no hesitation in holding that the



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apprehension of bias entertained by the petitioner/plaintiff is wholly unfounded and devoid of any basis. Consequently, this Court concludes that the Transfer Civil Miscellaneous Petition is devoid of merits and is liable to be dismissed.

14. In the result, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. There shall be no order as to costs.

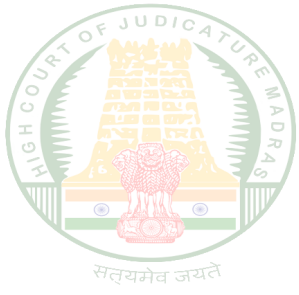
10.07.2026

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

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To

- 1.The Principal District Court, Tenkasi.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

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Order made in
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