

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2015

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

Tr.C.M.P.No.773 of 2014

and

M.P.No.1 of 2014

M.Jayamani @ Mani .. Petitioner

Vs

M.Shanmugam .. Respondent

Prayer: Civil Revision Petition filed under Section 24 of the Civil Procedure Code, 1908 to withdraw the case in I.P.No.37 of 2014 on the file of the Sub Court, Salem and transfer the same to the Sub Court, Pudukottai to be tried along with I.P.No.5 of 2014.

For Petitioner : Mr.A.Esakkiappan
For Respondent : Mr.K.Selvaraj

O R D E R

This petition has been filed to withdraw the case in I.P.No.37 of 2014 on the file of the Sub Court, Salem and transfer the same to the Sub Court, Pudukottai to be tried along with I.P.No.5 of 2014.

2.Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3.The learned counsel for the petitioner submitted that the petitioner filed a petition in I.P.No.5 of 2014 on the file of the Sub Court, Pudukottai and the respondent in I.P.No.5 of 2014 filed a petition in I.P.No.37 of 2014 against the petitioner on the file of the Sub Court, Salem. He would submit that for proper adjudication and to avoid conflicting of judgments, the petitioner prays that I.P.No.37 of 2014 on the file of the Sub Court, Salem is ordered to be transferred to the Sub Court, Pudukottai by stating that the petitioner at the earlier point of time he filed I.P.No.5 of 2014 to adjudge him as an insolvent. After receipt of notice, the first

respondent/respondent herein in I.P.No.5 of 2014 filed a petition in I.P.No.37 of 2014 on the file of the Sub Court, Salem but he is residing only within Pudukottai jurisdiction. Hence, he wants I.P.No.37 of 2014 on the file of the Sub Court, Salem is ordered to be transferred to the Sub Court, Pudukottai where I.P.No.5 of 2014 is pending and prayed for an order.

4.Resisting the same, the learned counsel for the respondent would submit that the petitioner is residing at Salem and hence both the cases may be tried at Salem to avoid conflicting judgments. Further, to prove that the petitioner is residing at Salem, the respondent has referred the document filed by the petitioner in page No.15 of the typed set of papers wherein he has stated that he is residing at Angammal Colony, Gupta Nagar, 4th Cross Road, Door No.282, Salem-9. So, he prayed that I.P.No.5 of 2014 pending on the file of the Sub Court, Pudukottai to be transferred to the Sub Court, Salem where I.P.No.37 of 2014 is pending. Hence, he prayed for dismissal of the Transfer Civil Miscellaneous Petition.

5.Considered the rival submissions made on both sides and perused the typed set of papers.

6.The petitioner who filed I.P.No.5 of 2014 on the file of the Sub Court, Pudukottai to adjudge him as an insolvent. The first respondent/respondent herein who is one of the creditor filed I.P.No.37 of 2014 on the file of the Sub Court, Salem impleaded other creditors also. The main argument of the petitioner is that the respondent is residing within jurisdiction of Pudukottai. But the document filed by the petitioner in page No.15 of the typed set of papers shows that the petitioner is residing at Salem and FIR also registered only at Salem Town Police Station wherein also he has mentioned that he is residing at Salem. So, I am of the view that instead of transferring I.P.No.37 of 2014 on the file of the Sub Court, Salem to the Sub Court, Pudukottai, it is a fit case to withdraw I.P.No.5 of 2014 on the file of the Sub Court, Pudukottai and ordered to transfer to the Principal Sub Court, Salem for joint trial. Accordingly, the petition in I.P.No.5 of 2014 on the file of the Sub Court, Pudukottai is ordered to be withdrawn from the respective Court and transferred to the file of the Principal Sub-Court, Salem for joint trial along with I.P.No.37 of 2014 in accordance with law. The Presiding Officer, Sub Court, Pudukottai is directed to transmit all the records pertaining to I.P.No.5 of 2014 to the file of the Principal Sub Court, Salem within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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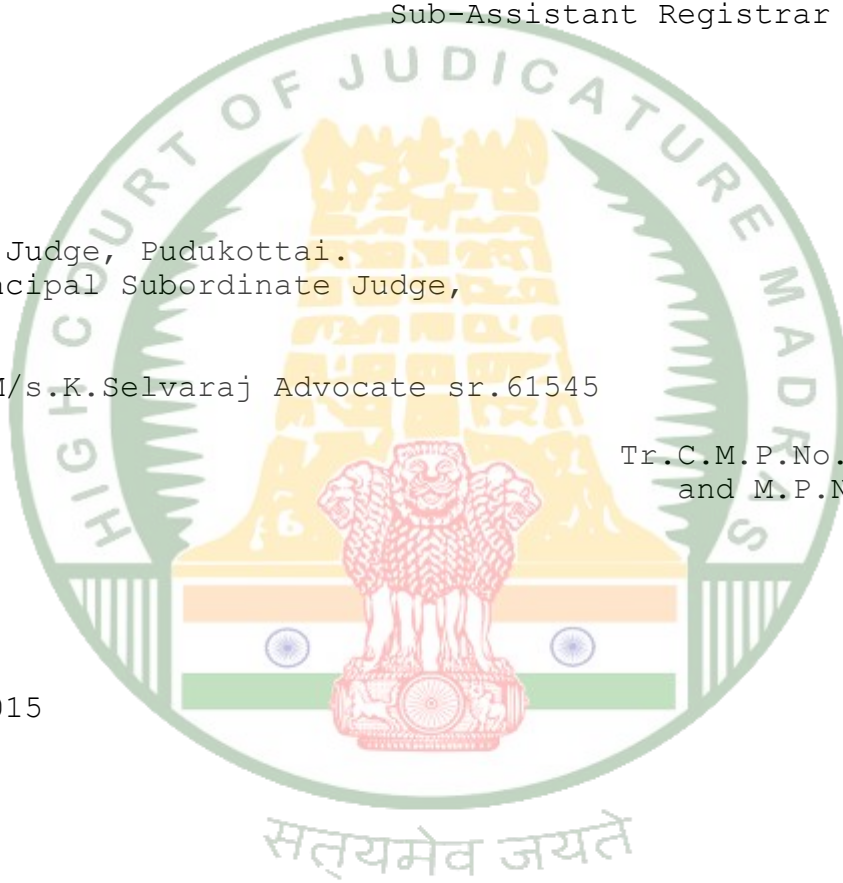
To

1. The Sub Judge, Pudukottai.
2. The Principal Subordinate Judge,
Salem

+1 cc to M/s.K.Selvaraj Advocate sr.61545

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