

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

Tr.C.M.P. No. 3 of 2015

&

M.P. No. 1 of 2015

S.B. Buvaneswari

..Petitioner

Vs.

Sri Foundation, rep. By
its Managing Partner
Mr.B. Nandakumar
No.1/360, Plot No. 17,
18, Thiru Murugan Nagar,
Mugalivakkam,
Chennai - 600 116.

..Respondent

Prayer: Petition filed under Section 24 of CPC to withdraw O.S.No.210 of 2010 on the file of Principal District Judge at Chengalpattu and transfer the same to any competent Civil Court having jurisdiction in Chennai.

For Petitioner :: Mr.B.S. Jhothiraman

For Respondent :: Mr.K. Sivasubramanian for
Mr.S. Ramesh

O R D E R

The defendant in O.S. No. 210 of 2010 on the file of Principal District Judge, Chengalpattu, is before this Court, seeking transfer of the said suit filed by the respondent/plaintiff for recovery of money and for permanent injunction, to any competent Civil Court at Chennai.

2. The said suit is being contested by the petitioner/defendant by filing written statement. P.W.1 has filed proof affidavit and at that stage, the petitioner/defendant is before this Court seeking transfer of the suit on the ground that she is bed-ridden due to ill-

health.

3. Heard Mr.B.S. Jhothiraman, learned counsel for the petitioner and Mr.K. Sivasubramanian representing Mr.S. Ramesh, learned counsel for the respondent.

4. When the suit is posted for cross-examination of P.W.1, this petition has been filed by the defendant seeking transfer citing health grounds. If the petitioner/defendant is unwell and she is unable to appear before the Court, the proper course would be to take out an application to examine her on commission. When P.W.1 himself is appearing before the Court at Chengalpattu, it is not for the petitioner/defendant to seek transfer stating that all the witnesses are from Chennai and that she is also bed-ridden. The cause of action has arisen at Chengalpattu and the property is also situated within the jurisdiction of Chengalpattu Court. Therefore, transfer cannot be ordered and Tr.C.M.P. stands dismissed. However, as stated above, nothing prevents the petitioner/defendant from taking out an application for appointment of an Advocate Commissioner to examine her, provided she does not become alright by the time she has to be examined as a witness. No costs. Connected M.P. is also dismissed.

Sd/-

Assistant Registrar

/ True copy /

Sub Assistant Registrar

nv

To

The Principal District Judge,
Chengalpattu.

+1 cc to Mr.B.S.Jhothiraman, Advocate (SR.6729)

+1 cc to M/s.S.Ramesh, Advocate (SR.6732)

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