

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

TR.CMP.No.490 of 2015

and

M.P.No.1 of 2015

S.R.K.Jayachandran

... Petitioner

Vs.

1.B.Baskaran

2.B.Amulu @ B.Ranjitha

3.The Joint Sub-Registrar-II,
Arakonam, Vellore District.

4.The Inspector General of Registration,
Santhome, Chennai.

5.The Taluk Surveyor,
Taluk Office, Arakonam.

6.The Village Administrative Officer,
Arakonam Town, Arakonam.

7.The Tahsildar,
Arakonam Taluk, Arakonam,
Vellore District.

8.The District Collector,
Vellore District.

9.The Town Surveyor,
Arakonam Municipal Office,
Arakonam Town.

10.The Commissioner,
Arakonam Municipality,
Arakonam.

... Respondents

Prayer: This petition has been filed Under Section 24 of the Code of Civil Procedure code to withdraw the case in O.S.No.108 of 2014 on the file of Sub Court at Arakonam and transfer the same to Tiruthani or Thiruvellore or any other Court.

For Petitioner : Mr.S.Thiruvengadam

O R D E R

If any observation made by the officer during the course of proceedings is a ground for transfer of the case, then no case would be conducted before any Court. The learned Judicial Officer is not expected to act like a toy and any human being, that too, Presiding Officer has got every right to make observation depending upon the nature of proceedings. In the present case, the Judicial Officer before whom O.P. No. 108 of 2014 is pending, is said to have shouted at the petitioner when he sought time stating that his counsel was not present. The Judicial officer did not believe the petitioner and she directed the office assistant to go and search for the petitioner's counsel, who after thorough search informed that neither petitioner's counsel nor his vehicle was seen. Based on this, apprehending that he may not get a fair trial, the petitioner has come before this Court seeking transfer of the above said case.

2. Heard Mr.S.Thiruvengadam, learned counsel appearing for the petitioner.

3. It is seen that the suit has been filed before the District Court, Vellore, in the year 2009 and thereafter, it has been transferred to the Trial Court. Plaintiff and the defendant have adduced the evidence. Subsequently, the petitioner filed a petition to recall P.W.1 and marked the documents and the said petition was allowed. P.W.1 was examined-in-chief and the documents were marked and the matter was posted on 29.06.2015 on which date, the learned counsel for the petitioner was not present before the trial Court, compelling the petitioner to seek adjournments. Having approach the Court for relief and when the entire trial was over, belatedly, the petitioner filed the petition to recall the plaintiff and to mark the document which was also allowed. P.W.1 was recalled and the documents were marked. It is the bounded duty of the petitioner to make himself available for cross-examination. It cannot be a ground for seeking adjournment. Even, if the counsel is present, he cannot do anything, as P.W.1 is required to be cross examined by the defendant's counsel.

4. It is seen that the learned trial Judge seems to have be frustrated by the attitude of the Petitioner having filed a petition when the matter was almost concluded. Therefore, any observation or any attitude exhibited by the Judicial officer cannot give apprehension that the officer is biased against the petitioner. The other allegation is that the respondent's

relative spoke about the dismissal of the case. It seems that it is only hearsay message and there is no proof in this regard. Therefore, the transfer petition cannot be allowed and the same is dismissed.

5. The Trial Judge is directed to conclude the trial and pronounce the judgment on or before 07.08.2015 and the observation made by this Court, is only for disposal of the transfer petition and he has nothing to do with the trial proceedings . The trial court to send a report to this Court on or before 12.08.2015.

6. In view of the above direction, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kkd

To

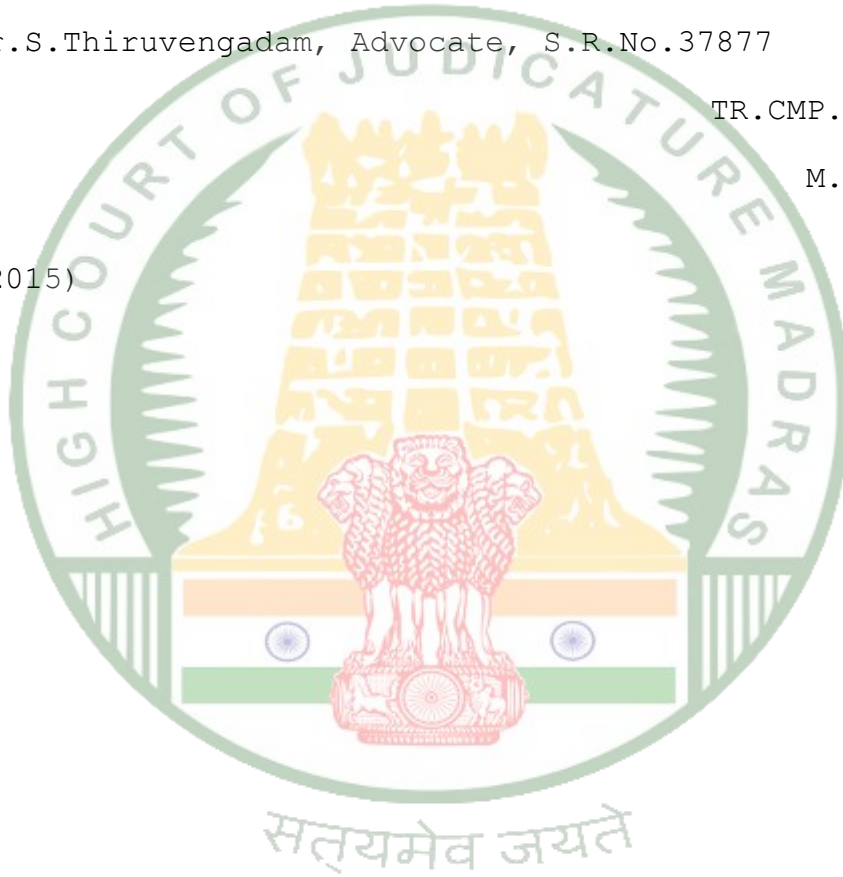
1. The Sub Court at Arakonam.
2. The Sub Court,
Tirutani.
3. The Joint Sub-Registrar-II,
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Arakonam.

+lcc to Mr.S.Thiruvengadam, Advocate, S.R.No.37877

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and
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TS (CO)
CA (07/08/2015)



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