

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2015

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Tr.C.M.P. No.601 of 2015
and M.P.No.1 of 2015

K.G.Prahadees Kumar ... Petitioner/Defendant
Vs.

K.V.Ravishankar ... Respondent/Plaintiff

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw O.S.No.197 of 2010 on the file of the II Additional Sub-Court, Erode and to transfer the same to any other appropriate Court outside Erode District for trial.

For Petitioner : Mr.P.M.Duraisamy
For Respondent : Mr.M.Guruprasad

O R D E R

The petitioner, who is the defendant in O.S.No.197 of 2010, has filed this petition to transfer the same from the file of the II Additional Sub-Court, Erode to any other appropriate Court outside Erode District for trial.

2.Learned counsel for the petitioner submits that the respondent/plaintiff has filed a suit in O.S.No.197 of 2010 for recovery of money. When P.W.1 was in witness box, without his knowledge, some illegal manipulation of the records in respect of evidence of P.W.1 has been made. The respondent and his family have strong influence in political circle and hence, no advocate is ready to file vakalat on behalf of the petitioner in Erode District. He further submits that a charge sheet has been filed against the respondent/plaintiff and the same was pending trial in C.C.No.782 of 2010 on the file of the Judicial Magistrate's Court No.III, Erode and thereafter, it was transferred to the Chief Judicial Magistrate's Court, Erode and renumbered as C.C.No.515 of 2013. It is further submitted that since the petitioner/defendant could not proceed with the trial, he filed a petition for transfer the case and the case was transferred to the Chief Judicial Magistrate's Court, Tiruppur,

as per the order of this Court made in Crl.O.P.No.21309 of 2013 dated 25.07.2014. Hence, he prayed for transfer.

3.Resisting the same, learned counsel for the respondent/plaintiff submits that he denied the averments made in the affidavit filed in support of this petition. He further submits that the matter was posted for cross-examination of P.W.1, without cross-examining him, the petitioner/defendant has come forward with this petition. Therefore, he prayed for dismissal of this petition.

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

5.There was a dispute between the petitioner and the respondent. A criminal case has also been pending against the respondent in C.C.No.782 of 2010 on the file of the Judicial Magistrate's Court No.III, Erode. On a petition filed by the petitioner for transfer, as per the order of this Court dated 25.07.2014 made in Crl.O.P.No.21309 of 2013, that case was transferred to the Chief Judicial Magistrate's Court, Tiruppur.

6.The apprehension of the petitioner/defendant is that no advocate is ready to appear on behalf of the petitioner to prosecute the suit against the respondent. It would clearly show that the petitioner has to be protected by law and a fair opportunity must be given to him to defend the case, since he apprehended that he will not defend the case before the II Additional Sub-Court, Erode and no advocate is ready to appear on behalf of him.

7.Considering the aforestated circumstances of the case, I am of the view, it is a fit case for order transfer. Accordingly, the suit in O.S.No.197 of 2010 is ordered to be withdrawn from the file of the II Additional Sub-Court, Erode and transferred to the file of the Principal Sub-Court, Salem for disposal in accordance with law. The Presiding Officer, II Additional Sub-Court, Erode, is directed to transmit all the records pertaining to O.S.No.197 of 2010 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. Since the suit is in part heard stage, the Presiding Officer, Principal Sub-Court, Salem, is directed to dispose of the suit in O.S.No.197 of 2010, within a period of three months from the date of receipt of records.

8.With the above direction, this Transfer Civil Miscellaneous petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Presiding Officer,
The Principal Sub-Court,
Salem.

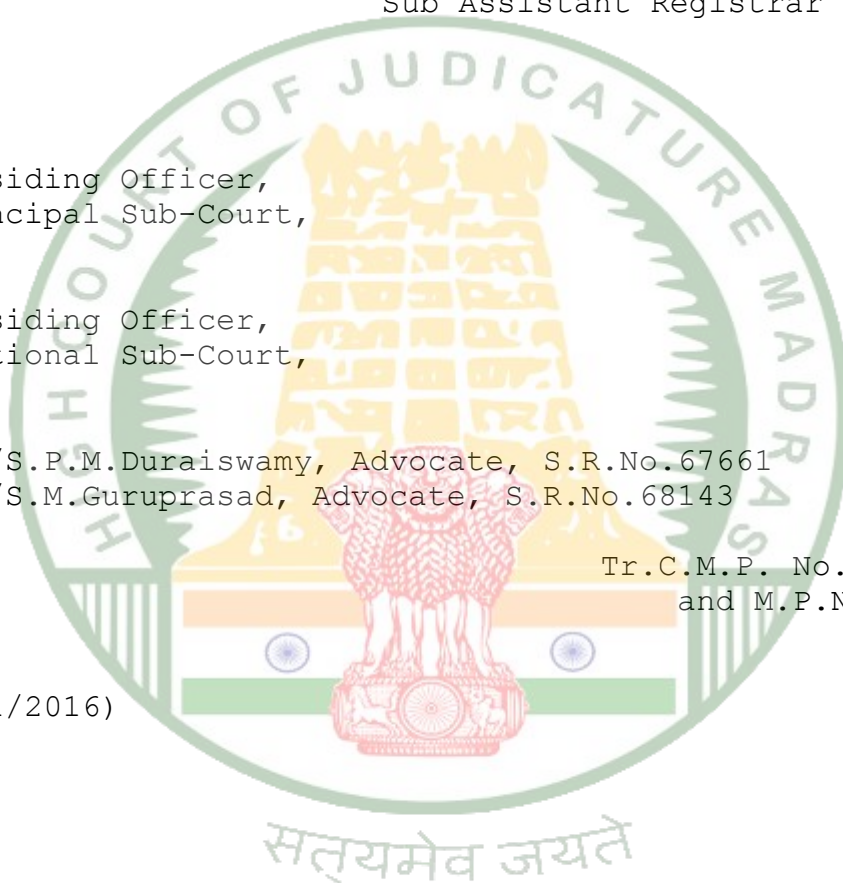
2.The Presiding Officer,
II Additional Sub-Court,
Erode.

+1cc to M/S.P.M.Duraiswamy, Advocate, S.R.No.67661

+1cc to M/S.M.Guruprasad, Advocate, S.R.No.68143

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rsi(CO)
srg (19/01/2016)



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