

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

Tr.CMP Nos.648, 659 & 140/2015 & MP.Nos.1, 1 & 1/2015 in Tr.CMP No.
648, 659 & 140/2015

1.R.S.Sivaprakasam
2.Mrs.C.Kalpagam

.. Petitioners in
Tr.CMP. Nos.648 & 659/2015

K.Sasikumar

..
Petitioner in Tr.CMP No.140/2015

Vs.

K.Sasi Kumar
Nos.648 & 659/2015

.. Respondent in Tr.CMP.

1.R.S.Sivaprakasam
2.Mrs.C.Kalpagam

..Respondent in Tr.CMP.
No.140/2015

Prayer in Tr.CMP.No.648/2015:- Transfer Petition filed under section 24 of the Code of Civil Procedure to withdraw OS.No.1014/2015 pending on the file of the learned XVIII Assistant Judge, City Civil Court, Madras and to transfer the said suit for a joint trial of the said suit to be tried along with OS.No.103/2015 pending before the learned Principal District Judge, Chengalpet.

Prayer in Tr.CMP.No.659/2015:- Transfer Petition filed under section 24 of the Code of Civil Procedure to withdraw OS.No.223/2014 pending on the file of the learned District Munsif, Alandur and transfer the said suit for a joint trial of the said suit to be tried along with OS.No.103/2015 pending before the learned Principal District Judge, Chengalpet.

Prayer in Tr.CMP.No.140/2015:- Transfer Petition filed under section 24 of the Code of Civil Procedure to withdraw the suit in OS.No.223/2014 from the file of the learned District Munsif, Alandur and transfer the same with a direction to be tried along with the suit in OS.No.1014/2015 on the file of the learned XVIII Assistant Judge, City Civil Court, Chennai.

For Petitioners in

CRP [PD] Nos.648 &
659/2015 & Respondents
in CRP [PD] No.140/2015 : Mr.K.Bijai Sundar

For Respondent in

CRP [PD] Nos.648 &
659/2015 & Petitioner in
CRP [PD] No.140/2015 : Mr.B.Kumarasamy

COMMON ORDER

Since the issue involved in the above Transfer Petitions and the parties are one and the same, the above petitions are disposed of by the following common order. For the sake of convenience, the names of the parties are mentioned in the common order.

2. Tr.CMP.No.648/2015 has been filed by one Siva Prakasam and Kalpagam, who are the defendants in OS.No.223/2014 on the file of the learned District Munsif, Alandur, came forward with the said petition to transfer the said suit to the learned Principal District Judge, Chengalpet, where OS.No.103/2015 has been filed by them for declaration and recovery of possession and other reliefs.

3. Tr.CMP.No.659/2015 has been filed by the very same Siva Prakasam and Kalpagam, who are the defendants in OS.No.1014/2015 on the file of the learned XVIII Assistant Judge, City Civil Court, Chennai, for declaration that the Settlement Deed is null and void, to be transferred to the learned Principal District Judge, Chengalpet, where OS.No.103/2015 is pending.

4. Tr.CMP.No.140/2015 has been filed by one Sasi Kumar, for transferring OS.No.223/2014 pending on the file of the learned District Munsif, Alandur, to the file of the learned XVIII Assistant Judge, City Civil Court, Chennai, to be tried along with OS.No.1014/2015.

5. Learned counsel for the petitioners in Tr.CMP.Nos.648 & 659/2015 and for the respondents in Tr.CMP.No.140/2015 would submit that the petitioners have filed OS.No.103/2015 for declaration of title and recovery of possession, since the suit property is situated within the territorial jurisdiction of the learned Principal District Judge, Chengalpet. But, the said Sasi Kumar [respondent in Tr.CMP.Nos.648 & 659/2015] has filed OS.No.223/2014 for bare injunction before the learned District Munsif, Alandur. He would further submit that the said Court, viz., the District Munsif Court, Alandur, comes within the territorial jurisdiction of the learned Principal District Judge, Chengalpet and that the suit filed by the said Sasi Kumar in OS.NO.1014/2015 for declaration that the

Settlement Deed is null and void, is pending on the file of the learned XVIII Assistant Judge, City Civil Court, Chennai. But the suit in OS.No.103/2015 pending on the file of the learned Principal District Judge, Chengalpet is a comprehensive suit and hence, prayed for allowing of Tr.CMP.Nos.648 & 659/2015, by transferring OS.No.1014/2015 pending on the file of the learned XVIII Assistant Judge, City Civil Court, Chennai and OS.No.223/2014 pending on the file of the learned District Munsif, Alandur, to be tried along with OS.No.103/2015 pending on the file of the learned Principal District Judge, Chengalpet.

6. Resisting the same, the learned counsel appearing for the respondent in Tr.CMP.Nos.648 & 659/2015 and for the petitioner in Tr.CMP.No.140/2015 would submit that though admittedly the properties in question are situated within the territorial jurisdiction of the learned Principal District Judge, Chengalpet, the documents have been registered only with the Sub Registrar, Joint-II, Saidapet, which comes within the territorial jurisdiction of the City Civil Court, Chennai and hence, prayed for the dismissal of Tr.CMP.Nos.648 & 659/2015 and allowing of Tr.CMP.No.140/2015 by transferring OS.No.223/2014 pending on the file of the learned District Munsif, Alandur to the file of the learned XVIII Assistant Judge, City Civil Court, Chennai, to be tried along with OS.No.1014/2015.

7. Heard the rival submissions made on either side and perused the materials placed on record.

8. Earlier, Sasi Kumar [Petitioner in Tr.CMP.No.140/2015 & Respondent in Tr.CMP.Nos.648 & 659/2015] has filed OS.No.223/2014 before the learned District Munsif, Alandur, for bare injunction. Admittedly, the suit properties is within the territorial jurisdiction of the District Munsif Court, Alandur, which is also within the territorial jurisdiction of the Principal District Court, Chengalpet. The said Siva Prakasam and Kalpagam, who are the petitioners in Tr.CMP.Nos.648 & 659/2015 have filed OS.No.103/2015 which is a comprehensive suit for declaration of title and recovery of possession and for other consequential reliefs. Hence, this Court is of the view that it is a fit case for ordering transfer of OS.No.223/2014 pending on the file of the learned District Munsif, Alandur, to the learned Principal District Judge, Chengalpet for joint trial.

9. Insofar as OS.No.1014/2015 is concerned, which is pending before the learned XVIII Assistant Judge, City Civil Court, Chennai, the said Sasi Kumar claims that the Settlement Deed alleged to have been executed on 28.06.1975 and registered with the Sub Registrar, Joint-II, Saidapet, as null and void. But, Siva Prakasam and Kalpagam, trace the title on the basis of the said Settlement Deed, alleged to be executed on 28.06.1975. But, the said Sasi Kumar is not a settlee, but only a purchaser. In such circumstances, it is a fit case for ordering transfer of OS.No.1014/2015 pending on the file of

the learned XVIII Assistant Judge, City Civil Court, Chennai, to the file of the learned Principal District Judge, Chengalpet for joint trial of all the suits.

10. In the result, Tr.CMP.Nos.648 and 659/2015 are allowed and OS.No.1014/2015 pending on the file of the learned XVIII Assistant Judge, City Civil Court, Chennai, and OS.No.223/2014 pending on the file of the learned District Munsif, Alandur, are hereby directed to be withdrawn and transferred to the file of the learned Principal District Judge, Chengalpet and to be tried along with OS.No.103/2015. Tr.CMP.No.140/2015 is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

11. The learned XVIII Assistant Judge, City Civil Court, Chennai and the learned District Munsif, Alandur, are hereby directed to send the records pertaining to OS.No.1014/2015 and OS.No.223/2014 to the file of the learned Principal District Judge, Chengalpet, within a period of two weeks from the date of receipt of a copy of this order.
AP

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1. The XVIII Assistant Judge
City Civil Court, Chennai.
2. The District Munsif
Alandur, Chennai.
3. The Principal District Judge
Chengalpet.

+1 C.C. To MR.B.Kumarasamy, Advocate in SR.NO.66393

+3 C.C. To MR.J.Dillikumar, Advocate in SR.NO.66319, 66317 &
66318

Tr.CMP Nos.648, 659 & 140/2015

SVI (CO)
sd : 22/12/2015