

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

Tr.C.M.P.No.805 of 2015
and M.P.No.1 of 2015

S.C.Mageshkumar @ Aravind

..Petitioner

-Vs-

M.A.Raja Rajeswari

..Respondent

Transfer C.M.P., filed under Section 24 of the Code of Civil Procedure, praying to withdraw the Original Suit in O.S.No.180 of 2015 on the file of District Munsif Court, Gudiyattam and transfer the same to District Munsif Court, Sholinghar, Vellore District.

For petitioner : Mr.S.Ramesh

ORDER

The petitioner has come forward with this Transfer C.M.P., seeking to withdraw the Original Suit in O.S.No.180 of 2015 on the file of District Munsif, Gudiyatham and to transfer the same to District Munsif, Sholinghar, Vellore District.

2. It is stated in the petition that the respondent herein as Plaintiff has filed Original Suit in O.S.No.180 of 2015 under Order 7 Rule 1 of C.P.C., praying for permanent injunction restraining the defendant therein/petitioner herein from interfering with the plaintiff's possession and enjoyment of the suit mentioned property. In the said suit, the petitioner herein/defendant in O.S.No.180/2015 filed an application in I.A.No.478 of 2015 praying to reject the plaint. It is further averred by the petitioner herein that in the suit filed by the plaintiff before the District Munsif, Gudiyatham, he was served with copy of summons and he also entered appearance through his counsel and further he filed an application in I.A.No.477/2015 seeking appointment of Advocate Commissioner and the said petition was posted on 28.10.2015 for counter of the plaintiff. It is further stated that he also filed an application under Order 7 Rule 11 of C.P.C., in I.A.No.478/2015 seeking to reject the plaint, however, the same was returned by the court below stating as under:-

" The application to reject the plaint cannot be filed in I.A.478/15. Hence, returned."

Thereafter, the advocate for petitioner/defendant attended and represented on 01.10.2015. Subsequently, the application was returned by the court below on 14.10.2015 stating as under:-

"previous returns not complied."

No final order has been passed so far. Merely because, the application to reject the plaint filed under Order 7 Rule 11 of C.P.C., was returned, the defendant has come forward with this application for withdrawal of O.S.No.180/2015 from the file of District Munsif, Gudiyatham and transfer the same to District Munsif, Sholinghar, Vellore District.

3. For the sole reason that the application to reject the plaint filed under Order 7 Rule 11 of C.P.C., was returned, this petition to transfer the said O.S. from District Munsif, Gudiyatham to District Munsif, Sholinghar sans merit. Accordingly, finding no merits in this Transfer C.M.P., the same is dismissed at the stage of admission itself. Consequently, connected MP is also dismissed. However, it is open to the defendant to file petition under Order 7 Rule 11 C.P.C, and represent the same before the court below in accordance with law.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

nvsri

To

- 1.The District Munsif , Gudiyattam
- 2.The District Munsif, Sholinghar, Vellore District.

+1 cc to M/s.S.Ramesh, Advocate, sr.61494

Tr.C.M.P.No.805 OF 2015

sk co

kra 30.11.2015