

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2015

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

Tr.C.M.P.No.432 of 2013
and M.P.No.1 of 2013

Parthasarathy,
on behalf of minors

1.Bala Vignesh

2.Praveen

3.Pratheep

... Petitioners

vs.

1.Minor Ashwin

2.Minor Raveen

3.K.M.Sampathkumar

4.Prema @ Premavathiammal

5.Rajammal

6.Kubendaran

7.Venkatachalapathy

... Respondents.

(Minors are represented by
father K.M.Sampathkumar)

Transfer petition has been filed to withdraw the suit in O.S.No.18 of 2011 on the file of Sub Judge, Harur and transfer the same to the file of Principal District Judge, Dharmapuri to be tried along with G.O.P.No.6 of 2010.

For petitioner : Mr.M.Selvam

ORDER

The plaintiffs in O.S.No.18 of 2011 are minors. Those minors are represented by their father Parthasarathy. Their father Parthasarathy claimed suit schedule property through a Will dated 11.4.1989 said to have been executed by his father Muthiyalu Chettiar in the name of his minor sons viz., the plaintiffs in O.S.No.18 of 2011.

2. It seems, the brother of the said Parthasarathy by name Sampath Kumar also claimed the same property for his minor sons.

3. Hence, the said Parthasarathy filed a suit in O.S.No.18 of 2011 on behalf of his minor sons on the file of the learned Sub Judge, Harur for declaration to declare that his minor sons are entitled to the suit schedule property through the Will executed by his father.

4. While so, the said Sampath Kumar filed a petition in G.O.P.No.6 of 2010 under Section 28 of the Guardian and Wards Act, 1890 before the learned Principal District Judge, Dharmapuri, seeking permission to sell the property that is the subject matter in O.S.No.18 of 2011.

5. G.O.P.No.6 of 2010 is pending on the file of the learned Principal District Judge, Dharmapuri, and the suit in O.S.No.18 of 2011 is pending on the file of learned Sub Judge, Harur. Hence, the present transfer CMP is filed seeking to transfer O.S.No.18 of 2011 pending on the file of the learned Sub Judge, Harur to the file of learned Principal District Judge, Dharmapuri to be tried along with G.O.P.No.6 of 2010.

6. In view of the prayer made in this transfer CMP, I am of the view, no notice need be issued to the other side. It is a different matter, if the petitioner sought to transfer G.O.P.No.6 of 2010 to be tried along with O.S.No.18 of 2011. It is not such prayer. Now, it is stated by the learned counsel appearing for the petitioner that both the cases in O.S.No.18 of 2011 and G.O.P.No.6 of 2010 are pending.

7. Hence, the transfer CMP is allowed and a direction is issued to the learned Sub Judge, Harur to transfer the suit in O.S.No.18 of 2011 pending on his file to the file of learned Principal District Judge, Dharmapuri, to be tried along with G.O.P.No.6 of 2010. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

sbi

To

1.The Sub Judge, Harur.

2.The Principal District Judge,
Dharmapuri.

1 cc to Mr..M.Selvam , Advocate Sr.No.44329

Tr.C.M.P.No.432 of 2013

vsn(co)

pmk.4.9.2015