



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2015

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.308 of 2013

and

M.P(MD)No.1 of 2013

M.P.M.Murugappan

...Petitioner

Vs.

1.M.Palaniappan

2.M.Muthiah

...Respondents

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case on the file of the Learned VII Additional City Civil Judge, Chennai in O.S.No.1135 of 2013 and transfer the same to learned Principal District Judge, Pudukkottai to try along with O.S.No.48 of 2012.

For Petitioner : Mr.S.Deenadhayalan

For Respondents : No appearance

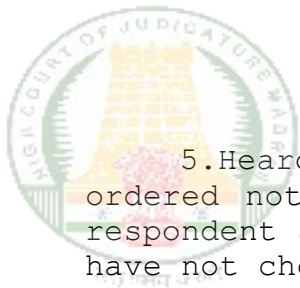
#### ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in O.S.No.1135 of 2013 from the file of the VII Additional City Civil Judge, Chennai to the file of the Principal District Judge, Pudukkottai to try along with O.S.No.48 of 2012.

2. The petitioner and the respondents are brothers. The first respondent, who is the elder brother of the petitioner, filed a suit in O.S.No.1135 of 2013 before the VII Additional City Civil Court, Chennai for partition. The second respondent, who is the second elder brother of the petitioner filed a suit in O.S.No.37 of 2012 before the Vacation Court, Pudukkottai and now the said case was transferred to the learned Principal District Judge, Pudukkottai and renumbered as O.S.No.48 of 2012 for partition.

3.In O.S.No.48 of 2012, the first respondent is the first defendant and the petitioner is the second defendant. While the said suit was pending, the first respondent filed a suit in O.S.No.1135 of 2013 before the VII Additional City Civil Court, Chennai against the petitioner for partition of Chennai property alone. The first respondent did not make the second respondent as a party/defendant. The first respondent is the permanent resident of Pudukkottai and with an ulterior motive he has filed a suit at Chennai.

4.The issue involved in both the suits are one and the same. In order to avoid conflicting of decisions and interest of justice, the petitioner is prayed for transfer of the suit in O.S.No.1135 of 2013 on the file of the VII Additional City Civil Court, Chennai to the file of the Principal District Judge, Pudukkottai to be tried along with O.S.No.48 of 2012.



5. Heard the learned counsel appearing for the petitioner. This Court ordered notice to the respondents 1 and 2. Though notice served on the respondent and their names are printed in the cause list, the respondents have not chosen to appear in person or through counsel.

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6. A reading of the plaint in O.S.No.48 of 2012 on the file of the Principal District Judge, Pudukkottai and in O.S.No.1135 of 2013 on the file of the VII Additional City Civil Court, Chennai reveals that both the suits are for partition and suit on the file of the Principal District Judge, Pudukkottai is a comprehensive suit which involves two schedule of properties including the property in the subject matter in O.S.No.1135 of 2013 on the file of the VII Additional City Civil Court, Chennai.

7. The first respondent is a permanent resident of Pudukkottai, who is the plaintiff in O.S.No.1135 of 2013. From the facts stated above, the contention of the counsel for the petitioner that in the interest of justice and to avoid conflicting decisions O.S.No.1135 of 2013 on the file of the VII Additional City Civil Court, Chennai must be transferred to Principal District Judge, Pudukkottai has considerable force. I am inclined to accept the said contentions.

8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and O.S.No.1135 of 2013 on the file of the VII Additional City Civil Judge, Chennai is hereby withdrawn and transferred to the file of the Principal District Judge, Pudukkottai to be tried along with O.S.No.48 of 2012 filed by the second respondent, if the same is not yet disposed of. The learned VII Additional City Civil Judge, Chennai is directed to send the case bundles to the Court of the Principal District Judge, Pudukkottai, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, M.P (MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1.The VII Additional City Civil Judge,  
City Civil Court,  
Chennai.

2.The Principal District Judge,  
Pudukkottai.

+1CC to M/s.D.Rameshkumar, Advocate in SR.18812

Tr.C.M.P. (MD)No.308 of 2013  
15.04.2015

am

PBK 24/04/2015 ::2P-4C: