

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Transfer Civil Miscellaneous Petition No.832 of 2014
&
C.M.P.No.10428 of 2016

N.Geetha

... Petitioner

vs

1.Hemadri
2.Chandrakumar
3.V.M.Suriyamoorthy
4.Kalaiselvi
5.Thamizhmani
6.Thangavelu
7.Jeeva
8.P.Saravanan
9.Thangamani
10.Alagammal
11.Elango
12.Anjalakshmi
13.Selvi.Sudharsana
14.Jayaraj
15.John Phelise Anthony

... Respondents

Civil Revision Petition filed under Section 24 of the Civil Procedure Code praying to withdraw O.S.No.46 of 2013 on the file of Additional District Munsif, Cuddalore and transfer the same to anyone of the Assistant Judges in the City Civil Court, Chennai.

For Petitioner : Mr.J.Jayendra Krishnan

For Respondents: Dr.Fr.A.Xavier Arulraj,
Senior Counsel
for

Mr.Santhosh Nagarajan for R3

Mr.S.Soundharrajan for R4, 5 and
7 to 9, 11 and 12

No Appearance for R1, 13 and 14

O R D E R

Learned counsel for petitioner sought an adjournment on the ground that senior counsel stands engaged. The matter has been posted on two earlier occasions and there was no representation for petitioner. It is not the practice of this Court to adjourn matters which stand posted for dismissal. Thus though we would accept the apology for non representation earlier, we would not accede to the request for adjournment.

2. This transfer petition seeks transfer of O.S.No.46 of 2013 on the file of Additional District Munsif, Cuddalore, to the file of learned Assistant Judge, City Civil Court, Chennai.

3. Heard learned senior counsel for third respondent, learned counsel for respondents 4, 5, 7, 8, 9, 11 and 12 as also learned counsel for petitioner.

4. Learned senior counsel for third respondent submitted that the claim of petitioner over the property arises under a sale deed, registration of which has been refused. Therefore, the petitioner who has no interest whatsoever in the property cannot make any claim there regards as done in his action in O.S.No.46 of 2013 on the file of learned District Munsif, Cuddalore and much less can he seek transfer.

5. In O.S.No.46 of 2013, the petitioner has sought for the following reliefs:

1) the two sale deeds purported to have been executed by the 1st plaintiff on 06/11/2009 in favour of the 1st defendant and registered is document No.3649/09, and another in favour of the 2nd defendant and registered as document No 3650/09, both in book No.1 in the office of the Sub-Registrar Vadalur in respect of the suit property and the other sale deeds in favour of the 3rd to 11th defendants in respect of plot Nos 127,131,133,135,138,139,140,141,142 and 143 out the suit property and registered as document No.3660,3661,3697,3700,3701,3727,3729,3730,3733 and 3763 in Book No.1 and by the 13th defendant in favour of the 14th defendant and registered as document No.2919/10 in book No.1 all in the office of the Sub-Registrar Vadalur are null and void

2. granting injunction against all the defendants restraining them from creating any further documents in favour of anybody else in order to avoid multiplicity of proceedings.

6. Learned counsel for petitioner has contended that O.S.No.455 of 2009 on the file of learned Additional District Munsif, Cuddalore, was an action fraudulently embarked upon by respondents 2 and 3. In O.S.No.455 of 2009 they sought for (i) permanent injunction restraining the first defendant from alienating or encumbering the suit properties; and (ii) permanent injunction restraining defendants 2 and 3 from registering any documents executed either by first defendant or his power agent in respect of suit properties, basing their claims on false documents. Towards avoiding the examination of such documents by an expert, first respondent had moved an application and taken return of the documents even during the pendency of an application by the police towards examination of the documents. Despite orders of Court, first respondent had failed to re-submit the documents before the Court concerned. Respondents wield heavy and wrongful influence in the locality and it was only upon persistent efforts of petitioner and on obtaining a direction u/s.482 Cr.P.C. that a case was registered against respondents 2 and 3 and they were arrested.

7. Considering the rival submissions, this Court is inclined to allow the transfer petition. Accordingly, this Court directs transfer of O.S.No.46 of 2013 on the file of Additional District Munsif, Cuddalore, to the file of District Munsif Court, Villupuram, who shall proceed with the case and dispose of the same within a period of six months from the date of receipt of this order.

With the above direction, this transfer civil miscellaneous petition is disposed of. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Additional District Munsif, Cuddalore

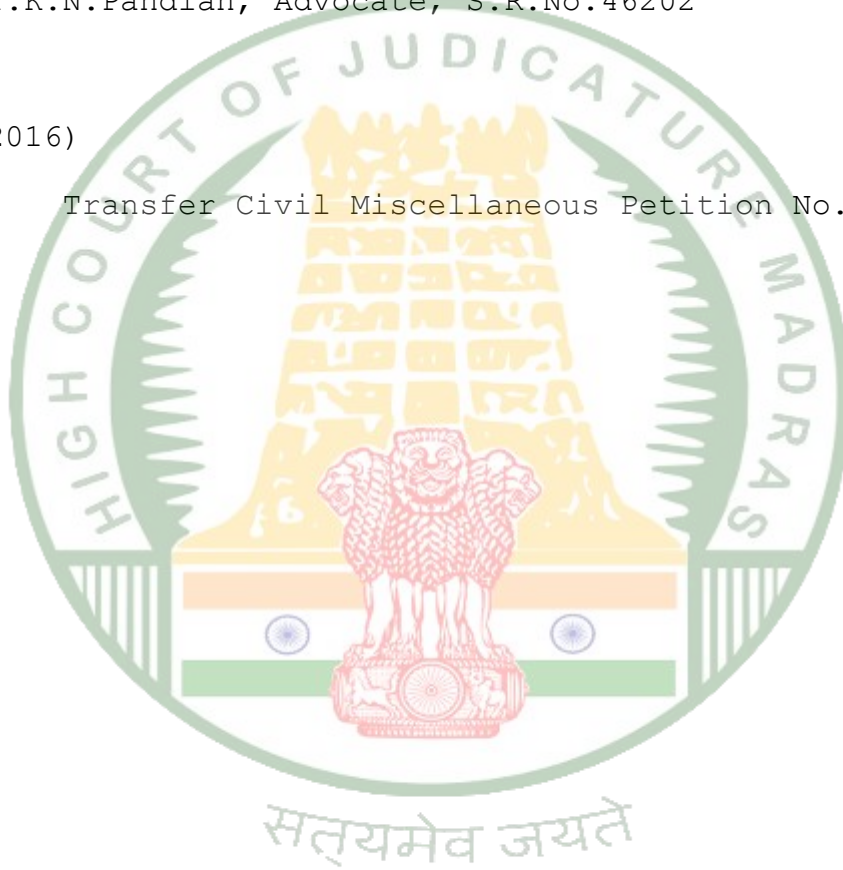
2. The District Munsif, Villupuram.

+1cc to M/s. Thenmozhi, Advocate, S.R.No.46587

+1cc to Mr.K.N.Pandian, Advocate, S.R.No.46202

TM(CO)
EU(11/11/2016)

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