

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.832 of 2015 and

MP.Nos.1 and 2 of 2015

T.V.Mylsamy

...Petitioner

versus

1.V.Ramasamy

2.N.Vijayalakshmi

3.R.Uma Maheswari

...Respondents

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw and transfer O.S.No.56 of 2008 pending on the file of Sub-Court, Tiruppur and O.S.No.351 of 2006 pending on the file of V Fast Track Court, Tiruppur to the 1st Additional District Court, Coimbatore to be tried along with O.S.No.322 of 1999 and O.S.No.362 of 2015.

For Petitioner : Ms.P.T.Asha for
M/s.Sarvabhauman Associates

For Respondents : No appearance for R1 and R2
Mr.Kingston Jerold for R3

O R D E R

The petitioner has come up with this transfer petition with a prayer to transfer two pending proceedings in O.S.No.56 of 2008 on the file of Sub-Court, Tiruppur and O.S.No.351 of 2006 on the file of V Fast Track Court, Tiruppur, on the ground that two connected suits are pending before the I Additional District Court at Coimbatore in O.S.No.322 of 1999 and O.S.No.362 of 2015.

2. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the third respondent.

3. The petitioner filed O.S.No.322 of 1999 before the I Additional District Court at Coimbatore, praying for a decree of declaration and injunction. The third respondent on the other hand filed O.S.No.362 of 2015 before the I Additional District Court, Coimbatore, praying for a decree of partition and injunction. The third respondent filed another suit in O.S.No.56 of 2008 before the Sub-Court, Tiruppur for a decree of declaration on the strength of a Will. The first respondent also filed a suit in O.S.No.351 of 2006 before the V Fast Track Court, Tiruppur for partition of the property with a contention that there was no such Will as alleged in O.S.No.56 of 2008. All the suits are now pending before the respective Courts.

4. The properties are one and the same in all these suits. The petitioner seeks a decree of declaration with respect to the property in O.S.No.322 of 1999. The third respondent filed a suit in O.S.No.362 of 2015 for partition and that is again with respect to the very same property. The third respondent also filed a suit in O.S.No.56 of 2008 with a claim that there is a Will in her favour and as such, the property cannot be partitioned. The first respondent, on the other hand, filed O.S.No.351 of 2006 before V Fast Track Court, Tiruppur praying for a decree of partition with a contention that there was no such Will in favour of the third respondent. The parties in all these suits are one and the same. The properties are also same in all these civil proceedings. In case, proceedings are taken up by three different courts, there is a possibility of rendering conflicting judgments in the very same subject matter. I am therefore of the view that the petitioner is justified in seeking the relief of transfer of two pending suits to the Court at Coimbatore.

5. The civil suits in O.S.No.56 of 2008 and O.S.No.351 of 2006 on the file of the Sub-Court, Tiruppur and V Fast Track Court, Tiruppur respectively are withdrawn from the file of these two Courts and are transferred to the file of I Additional District Court at Coimbatore, for disposal along with the suits in O.S.No.322 of 1999 and O.S.No.362 of 2015 on merits.

6. The Transfer CMP is allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

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To

1.The Sub-Judge, Tiruppur

2.The Presiding Officer,V Fast Track Court, Tiruppur

3.The I Additional District Court, Coimbatore

+1cc M/S.SARVBHAUMAN ASSOCIATES SR.NO. 54420

Transfer CMP No.832 of 2015

SV[CO]

RD : 18/10/2016