

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.492 OF 2016
AND CMP NO.13431 OF 2016

R.C.Karunakaran

... Petitioner

Versus

1.R.C.Ramamurthy Naidu

2.R.C.Gengadaran

3.R.C.Siva

... Respondents

PRAYER: Petition filed under Section 24 of the Civil Procedure Code with a prayer to withdraw the suit in O.S.No.199 of 2015 pending on the file of District and Sessions Judge, Thiruvallur and transfer the same to the file of Additional District and Sessions Judge III, Poonamallee to try along with O.S.No.100 of 2010 pending on the file of Additional District and Sessions Judge III, Poonamallee for joint trial.

For Petitioner : Mr.K.Krishnan

For Respondents : Mr.S.Sadasharam

ORDER

The respondents filed a suit in O.S.No.100 of 2010 before the District Court, Tiruvallur, praying for a decree of partition.

2. The petitioner long after the initiation of the suit in O.S.No.100 of 2010, filed a fresh suit in O.S.No.199 of 2015 for partition of the property stated to be owned by his mother.

3. The petitioner has come up with this transfer petition to withdraw the suit in O.S.No.199 of 2015 pending on the file of District Court, Tiruvallur and transfer the same to the file of Additional District and Sessions Court III, Poonamallee, for joint trial along with O.S.No.100 of 2010.

4. The transfer petition is opposed by the respondents by filing counter. According to the respondents, the suit in O.S.No.100 of 2010 is now pending for recording evidence on the side of the petitioner, who is the defendant in the said suit.

According to the respondents, the suit in O.S.No.199 of 2015 is not maintainable, in view of the partition, which took place earlier, pursuant to the will executed by the predecessors interest.

5. I have heard the learned counsel for the petitioner and the learned counsel for the respondents.

6. The suit in O.S.No.100 of 2010 was instituted praying for a decree of partition. The petitioner is a party to the said suit. The petitioner, after about five years, filed a fresh suit for partition before the District Court, Tiruvallur. The petitioner now seeks an order to transfer the later suit to the file of the III Additional District and Sessions Court, Poonamallee, for disposal along with O.S.No.100 of 2010.

7.The factual matrix indicates that the Trial Court has already recorded the plaintiff's side evidence in O.S.No.100 of 2010. The other suit in O.S.No.199 of 2015 is yet to be posted for trial. In fact, issues itself have not been framed so far. Such being the factual position, there is no question of withdrawing the suit in O.S.No.199 of 2015 for joint trial along with O.S.No.100 of 2010. The petitioner, who filed the suit subsequently and more particularly after five years, must wait for his turn to come.

8. In the upshot, I dismiss the Transfer Civil Miscellaneous Petition. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

TK

To

1.The District and Sessions Judge
Thiruvallur.

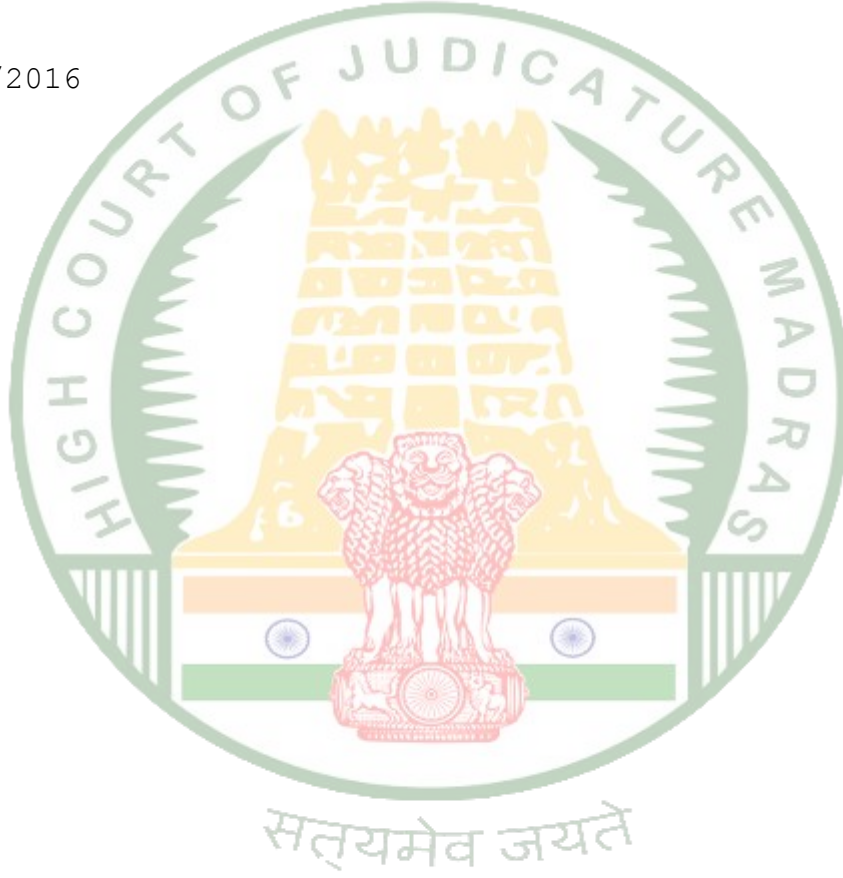
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2.The Additional District and Sessions Judge III
Poonamallee.

+1cc to M/S.K.Krishnan, Advocate Sr.68318
+1cc to M/S.S.Sadasharam, Advocate Sr.68013

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srg 26/12/2016



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