

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2016

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Tr.C.M.P.No.539 of 2016

and

C.M.P.No.14412 of 2016

E.Ruckmani

... Petitioner

Vs.

1.Murugar Selvi
2.Minor S.Dhina Eswar
rep. by mother/guardian Murugar Selvi

3.E.Gowri Mahesh Kumaro
4.M/s.Aramana Bar & Restaurant
rep. by Partners - Nithish Sidhan
Omana Ashokan, V.A.Dany & Denni Dipin

5.Nithish Sidhan

6.Omana Ashokan

7.V.A.Dany

8.Deeni Dipin

9.M.N.Sridharan Nayar

10.Gurukrishna Exports rep. by its
Director Yuvaraj

11.Anbu Palamudir Nilayam

... Respondents

Prayer: Petition filed under Section 24 of the Civil Procedure Code seeking to withdraw O.S.No.282 of 2008, pending on the file of the learned Additional District and Sessions Judge No.I, Tiruppur and transfer the same to the file of the learned principal District and Sessions Judge, Coimbatore.

For Petitioner

: Mr.B.R.Shankaralingam

ORDER

The petitioner filed this transfer petition to withdraw the suit in O.S.No.282 of 2008 from the file of the learned Additional District and Sessions Judge No.I, Tirupur and

transfer the same to the file of the learned Principal District and Sessions Judge, Coimbatore.

2. The suit was filed by the respondents 1 and 2 against the petitioner for partition. The suit is ripe for trial.

3. The petitioner has come forward with this petition on the ground that she is suffering from knee joint pain, high blood pressure and other bodily ailments due to old age and as such, it would not be possible for her to attend the Court at Tiruppur.

4. The learned counsel for the petitioner submitted that the petitioner filed a transfer petition earlier in Tr.C.M.P.No.328 of 2013 for the very same relief. The transfer petition was closed on account of the dismissal of the suit in O.S.No.282 of 2008, consequent to the non-appearance of the plaintiffs. Thereafter, the suit was restored on file, which necessitated the petitioner to file this transfer petition.

5. The suit is of the year 2008. Even according to the petitioner, the suit is now at the stage of trial and it would not be possible for her to appear on all the dates of hearing before the trial court.

6. It is always open to the petitioner to approach the trial court for a direction to complete the trial as early as possible, without making her to come and attend all the proceedings. The petitioner's ill health alone cannot be a reason to transfer the suit. In fact, the distance between Coimbatore and Tiruppur is only 60 km. I am therefore of the view that there is no merit in the contention of the petitioner.

7. The learned counsel for the petitioner wanted liberty to file appropriate application before the trial court to dispense with the appearance of the petitioner. It is open to the petitioner to make such an application before the trial court and the same would be decided taking into account the prevailing situation and stage of trial.

8. The transfer petition is dismissed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rk

To

1. The Additional District and Sessions Judge No.I, Tiruppur.
2. The Principal District and Sessions Judge, Coimbatore.

+ 1 cc to Mr.B.R.Shankaralingam, Advocate SR.52069

Tr.C.M.P.No.539 of 2016

EV (CO)
Eu 30.09.16



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