

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.675 of 2016 and

CMP.No.17696 of 2016

Nickson

...Petitioner

versus

1.Balasundaram

2.Natarajan

...Respondents

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.16 of 2014 on the file of District Munsif, Nagapattinam, transfer the same to District Judge, Nagapattinam to be tried along with O.S.No.9 of 2014.

For Petitioner : Mr.Babu Rangasamy

O R D E R

The first respondent filed a suit in O.S.No.16 of 2014 before the District Munsif Court, Nagapattinam, praying for a decree of declaration and consequential injunction. The petitioner is not a party to the said suit. Subsequently, another suit in O.S.No.9 of 2014 was filed by one Shalini against the petitioner and others. The suit is one for partition and permanent injunction. The petitioner has now come up with this petition to transfer the suit in O.S.No.16 of 2014 to the District Court, Nagapattinam for trial along with O.S.No.9 of 2014.

2. Heard the learned counsel for the petitioner.

3. The suit in O.S.No.16 of 2014 was filed for a decree of declaration. The petitioner is not a party to the said suit. The subsequent suit is one for partition. The petitioner was impleaded on account of his purchase of the undivided property. The petitioner now seeks transfer of the suit in O.S.No.16 of 2014 from the District Munsif Court to the District Court for disposal along with O.S.No.9 of 2014.

4. The petitioner is admittedly not a party to the suit in O.S.No.16 of 2014. The suit is pending before the District Munsif Court. Nagapattinam. In case, the suit is transferred for disposal along with O.S.No.9 of 2014 before the District Court, Nagapattinam, the plaintiff in O.S.No.16 of 2014 would lose the chance of filing first appeal before the first appellate Court at Nagapattinam. In any case, there is no question of transferring another suit at the instance of a party, who was

not shown as a party in that suit. I am therefore of the view that the petitioner has not made out a case for transfer.

5. In the up shot, I dismiss the Transfer Civil Miscellaneous Petition. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

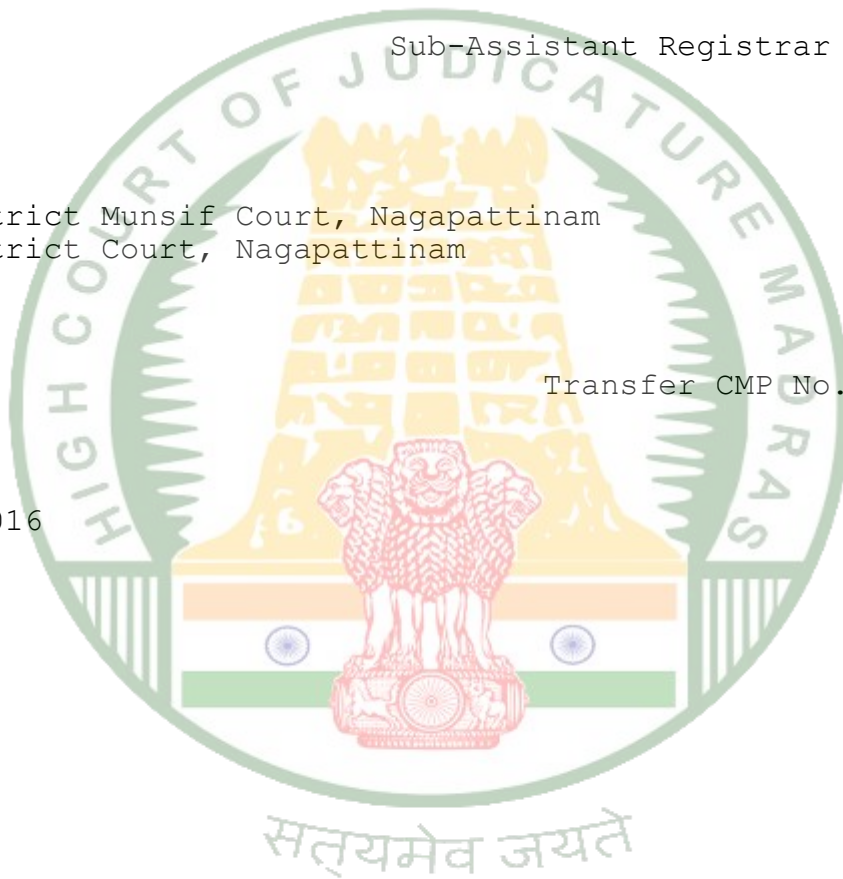
svki

To

- 1.The District Munsif Court, Nagapattinam
- 2.The District Court, Nagapattinam

Transfer CMP No.675 of 2016

br(co)
aa09/12/2016



WEB COPY