

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2016

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.789 of 2016

and C.M.P.No.20046 of 2016

Purushothaman

... Petitioner

Vs.

1. Maragadam
 2. Jayalakshmi
 3. Prabha
 4. P.Babu
 5. P.Ramesh
 6. P.Murugan
 7. P.Kannan, S/o Late Perumal Naidu
 8. P.Usha
 9. P.Vasanthamma
 10. Vishnu Vijayakumar
 11. Suresh
 12. Suseela
 - Kesavan (died)
 - Jayaraman (died)
 13. Amudha
 14. Santhi @ Sasikala, D/o Kesavan
 15. Ramanujam
 16. Selvam
 17. Jagadesan
 18. Sasikala
 19. Kannan, S/o Ramanujam
 20. Raja
 21. Rajendran
 22. Manickam
 23. Santhi, W/o Late Jayaraman
 24. Minor Roopasree, D/o Late Jayaraman
- (Respondents 4 to 24 remained
ex-parte in the Court below)
.. Respondents

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code praying to withdraw the I.A.No.216 of 2014 in O.S.No.37 of 2016 on the file of the Sub-Court,

Uthangarai and transfer the same to the Court of Subordinate Judge, Dharmapuri or Vellore.

For petitioner : Ms.P.Srividhya

ORDER

This Tr.C.M.P. is filed by the eleventh defendant in a suit for partition. A preliminary decree had been passed in the partition suit. It is also stated that appeal has been preferred against the said preliminary decree, which is pending before the District Court, Krishnagiri. In the meanwhile, a Commissioner has been appointed in the final decree proceedings, who is to file his report today (16.12.2016). Now, the petitioner has come up with the present Tr.C.M.P. on the apprehension that he has appeared before the Court below and that he would not be given an opportunity to file his objections to the Commissioner's report. Such an apprehension is irrelevant at this stage and unwarranted, as the Commissioner has not even filed his report and the petitioner has also not made any request to the learned Judge to file his objections to the Commissioner's report. The grievance of the petitioner is that his case has not been heard properly. A mere bald allegation like this, will not entitle the petitioner for transfer of the case from one Court to the other. However, it is made clear that when once the Commissioner files his report and the same is served on the petitioner, the petitioner shall be given an opportunity to file his objections to the said report and the said objections may be considered at the time of passing of the final decree. With the above observations and directions, this Tr.C.M.P. is disposed of. No costs. Consequently, C.M.P. is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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Copy to

1. The Subordinate Judge, Uthangarai.
2. The Subordinate Judge, Dharmapuri.
3. The Subordinate Judge, Vellore.

+1cc to Mr.P. Srividhya, Advocate, S.R.No.73367

ssi (CO)

md(09/01/2017)

Tr.C.M.P.No.789 of 2016