



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Tr.C.M.P. (MD) .No.211 of 2015
and M.P. (MD) No.1 of 2015

S.Padmavathi

.. Petitioner/3rd Defendant

Vs.

1.G.Sakthi Saravanan
2.A.Arukkani Ammal
3.K.Muthulakshmi
4.G.Gandhimathi

.. Respondent/Plaintiff

.. Respondents 2 to 4/Defendants 1, 3 and 4

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the suit in O.S.No.381 of 2012 on the file of IIIrd Additional Sub Judge, Madurai and to transfer the same to Sub Judge, Erode, for conducting joint trial along with the suit in O.S.No.480 of 2013 on his file.

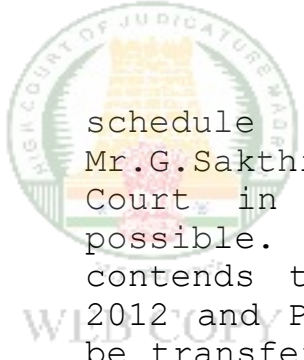
For Petitioner	:	Mr.M.Vijaya Anand for Mr.R.Suriya Narayanan
For R1	:	Mr.M.Poniah
For R4	:	Mr.R.Maheswaran
For R3	:	No apperance

O R D E R

The present petition for transfer is filed to transfer O.S.No.381 of 2012 pending before the III Additional Sub Judge, Madurai to the file of Sub Court, Erode for conducting joint trial along with the suit in O.S.No.480 of 2013.

2. The contention of the petitioner is that the suit filed before Madurai Court for recovery of money is filed before the Court which has no jurisdiction. Further the learned counsel appearing for the petitioner contends that the Madurai Court ought not to have numbered the suit for recovery of money filed by the first respondent herein.

3. The learned counsel appearing for the respondents opposed the petition by stating that the suit filed before the Madurai Court is for recovery of money and the suit filed before the Erode Court is for declaration of title in respect of the suit



schedule property. This apart, the first respondent one Mr.G.Sakthi Saravanan is not a party in the suit before the Erode Court in O.S.No.480 of 2013. Therefore, no joint trial is possible. Further, the learned counsel for the respondents contends that the Trial has already commenced in O.S.No.381 of 2012 and PW1 filed the proof affidavit. Hence, the case need not be transferred, which will create not only inconvenience, but also result inconsistency in the trial.

4. Considering the facts and circumstances of the case that the petitioner is not even a party in O.S.No.480 of 2013 pending before the Erode Court, the question of joint trial does not arise. Accordingly, the petition deserves no consideration and the same is dismissed. No costs. Connected miscellaneous petition is also dismissed.

Sd/
Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar.

To
1.III Additional Sub Judge, Madurai.
2.The Subordinate Judge, Erode.

+1CC to M/S.M.Ponniah, Advocate, SR.No. 68376
+1CC to M/S.R.Maheswaran, Advocate, SR.No. 68912

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