



WEB COPY

1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2016

CORAM:

THE HON'BLE MR. JUSTICE K. KALYANASUNDARAM

Tr.C.M.P(MD)Nos.189 to 191 of 2016

and

CMP(MD)Nos.3392 and 3394 of 2016

Tr.C.M.P(MD)No.189 of 2016:

R.Ramamoorthy

: Petitioner/Defendant

Vs.

S.Mariappan

: Respondent/Plaintiff

Prayer in Tr.CMP(MD)No.189 of 2016: This petition is filed under Section 24 of the Civil Procedure Code, to withdraw the case in O.S.No.26 of 2014 on the file of the Additional District Court, Periyakulam and transfer the same to the Principal District Court, Theni and pass such other orders.

Tr.C.M.P(MD)No.190 of 2016:

R.Saravanan

: Petitioner/Defendant

Vs.

R.Mohan

: Respondent/Plaintiff

Prayer in Tr.CMP(MD)No.190 of 2016: This petition is filed under Section 24 of the Civil Procedure Code, to withdraw the case in O.S.No.27 of 2014 on the file of the Additional District Court, Periyakulam and transfer the same to the Principal District Court, Theni and pass such other orders.

Tr.C.M.P(MD)No.191 of 2016:

R.Saravanan

: Petitioner/Defendant

Vs.

B.Lakshmi

: Respondent/Plaintiff

Prayer in Tr.CMP(MD)No.191 of 2016: This petition is filed under Section 24 of the Civil Procedure Code, to withdraw the case in O.S.No.28 of 2014 on the file of the Additional District Court, Periyakulam and transfer the same to the Principal District Court, Theni and pass such other orders.

For Petitioner : Mr.S.Sukumar

For respondent : Mr.H.Velavadhas

COMMON ORDER

These Petitions have been filed for withdrawal of the cases via.,
<https://hccs.nic.in/26> and 28 of 2014 from the file of the Additional District Court, Periyakulam and transfer the same to the file of the Principal District Judge, Theni, for disposal.



2.Mr.S.Sukumar, learned counsel appearing for the petitioners would submit that the petitioners and their family have jointly borrowed loan to the tune of Rs.15,00,000/- from the respondents, after handing over 10 unfilled signed cheques, 5 unfilled signed promissory notes and 3 unfilled signed deeds to them as security and later, they discharged their entire loan amount and even then with the connivance of the respondents, frivolous litigations have been filed before the Principal District Judge, Theni for recover of money, based on the unfilled promissory notes. So, the petitioner R.Ramamoorthy lodged a complaint against them, which stands registered in Crime No.185 of 2014 on the file of the Inspector of Police, Veerapandi Police Station under Sections 147, 148, 506(ii) IPC and under Section 4 of the Tamil Nadu Prevention of Exorbitant Interest Act.

3.It is further contended that the learned Principal District Judge, Theni without application of mind and on his own motion transferred the cases from the Principal District Court, Theni to the Additional District Court, Periyakulam and that the transferee Court without providing reasonable opportunity to the petitioners/defendants and in total violation of principal of natural justice has proceeded with the suits in harried manner. So, the petitioners have reasonable apprehension that they will not get fair trial before the transferee court and fair trial is the imperative of justice delivery system.

4.The learned counsel has relied upon the following judgments in support of his contention:-

01.In Kulwinder Kaur vs. Kandi Friends Education Trust reported in (2008)3 SCC 659,

02.In D.A.V. Boys Sr. Sec. School vs. D.A.V. College Managing Committee reported in 2010(5)CTC 618.

5.The respondents filed counter affidavits denying the allegations made in the applications filed in support of the transfer petitions.

6.Mr.H.Velavadas, learned counsel appearing for the respondents would submit that the petitioners borrowed money from the respondents on proper execution of the promissory notes; that the learned Principal District Judge, Theni ordered transfer of 50 cases including the suits filed against the petitioners in the year 2014 to the Additional District Court, Periyakulam on jurisdictional point.

7.It is further submitted that after transfer of the cases, the trial has commenced and now the case is posted for cross examination of the plaintiffs' witnesses by the petitioners/defendants and at this juncture, these petitions are filed with a view to drag on the proceedings. It is further submitted that the Inspector of Police, attached to Veerapandi Police station, after thorough investigation closed the Crime No.185 of 2014 as 'Mistake of Fact' and thereafter, the petitioner R.Ramamoorthy has filed a private complaint before the learned Judicial Magistrate No.I, Theni.



8. Heard the rival submissions and perused the materials available on record.

9. Though the petitions have been filed mainly on the ground that the petitioners were not provided with fair trial by the transferee court, however, in the affidavits filed in support of the petitions, they have deliberately suppressed the fact that the trial had already commenced and the suit is posted for cross examination of PW1. Further, except vague allegations that the principles of natural justice has been violated, no specific instances were given in the affidavit. So with this bald allegations, the suits cannot be transferred at the instance of the petitioners.

10. Further, the decisions relied upon by the learned counsel for the petitioners have no bearing on the facts of the present case.

11. In such view of the matter, this court finds no merit in the petitions. In the result, these petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/

Assistant Registrar (AS)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Additional District Judge,
Periyakulam.

2. The Principal District Judge,
Theni.

+1cc to M/S.S.Sukumar, Advocate in SR.No.34415

+1cc to M/S.H.Velavadhas, Advocate in SR.No.34585

Tr.C.M.P (MD) Nos.189 to 191 of 2016
and

CMP (MD) Nos.3392 and 3394 of 2016

Dated :01.07.2016

er

PA/SK-SKN/SAR II/18.07.2016/3P/5C