



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2016

CORAM:

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P (MD) No.42 of 2016

and C.M.P (MD) No.870 of 2016

Vijaya Rajan

... Petitioner

Vs.

1.Renuka Sabanayagam
2.Thangam Thiagarajan

... Respondents

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw O.S.No.129 of 2014 on the file of the VI Additional District Court, Madurai and transfer the same to some other District Court, Maduarai.

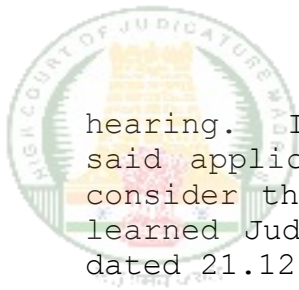
For Petitioner : Mr.R.Vijayakumar
For Respondent : Mr.V.Ramakrishnan

O R D E R

The Transfer Civil Miscellaneous petition is filed to withdraw the suit in O.S.No.129 of 2014 on the file of the VI Additional District Court, Madurai and transfer the same to some other District Court, Maduarai.

2.The first respondent herein filed the suit in O.S.No.129 of 2014 before the VI Additional District, Madurai, for partition. The petitioner and other defendants filed written statement disputing the claim of the respondent. The 1st respondent filed I.A.No.979 of 2015 for amendment of the plaint. The said application is posted for filing counter on 21.12.2015. On that day, due to ill health, the petitioner could not contact his advocate and file counter in that application. Hence, an ex parte order was passed on 21.12.2015 allowing the amendment petition and the suit was adjourned to 07.01.2016.

3.On 07.01.2016 the petitioner filed an application to set aside ex parte order along with counter in I.A.No.979 of 2015 after serving the same to the other side. The procedure to be followed by the learned VI Additional District Judge, Madurai, is if any application is filed, the same has to be presented in the open Court. Without doing so, the learned Judge returned the same without making any endorsement. The petitioner filed an application for obtaining certified copy of the ex parte order dated 21.12.2015. As the ex parte order copy was not made ready on 20.01.2016, the learned counsel for the petitioner filed a memo for adjourning the matter on the ground that he applied for certified copy of the ex parte order on 21.12.2015 for further proceedings. The learned Judge returned the memo and posted the suit for trial on 01.02.2016. In such circumstances, the petitioner has come out with the present transfer civil miscellaneous petition.



hearing. If so presented, the learned Judge is directed to receive the said application to set aside the ex parte order dated 21.12.2015 and consider the same on merits and pass orders in accordance with law. The learned Judge is directed to issue certified copy of the ex parte order dated 21.12.2015 if any application is made.

WEB COPY

5. With the above direction, the Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, connected M.P. is closed.

Sd/-
Assistant Registrar (Crl. side)

/True copy/

Sub Assistant Registrar

To
The VI Additional District Judge,
Madurai.

+1 CC to Mr. R. Vijaya Kumar, Advocate, SR No. 11121
+1 CC to Mr. V. Ramakrishnan, Advocate, SR No. 11112

Tr.C.M.P (MD) No. 42 of 2016
26.02.2016

nbj
SH/SKS-RR:10.03.2016:2P/4C