

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.260 of 2014

M. Kaliaperum

... Petitioner

Vs.

P.A.Premson

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw and to transfer the above E.P.No.1974 of 2012 pending on the file of X Assistant Judge, City Civil Court, Chennai to the District Munsif Court, Alandur, Kancheepuram District to prosecute the E.P. to recover the balance of the decree amount from the respondent/judgment debtor.

For Petitioner : Mr.T.P.Kathirrajan

For Respondent : Sd-No appearance

O R D E R

It appears that notice through Court was served on the respondent/husband as early as in the month of March 2017. However, there is no representation for the respondent either in person or through counsel.

2. The petitioner herein is the decree holder in O.S.No.1395 of 1999 on the file of learned X Assistant Judge, City Civil Court, Chennai. After obtaining the decree, he has filed a petition in E.P.No.1974 of 2012 for recovery of money. The respondent herein was working at Adyar Post Office within the jurisdiction of the City Civil Court, Chennai. In the Execution Petition, warrant of arrest was issued to arrest the judgment debtor as he did not appear for the E.P., despite service of notice on him. The arrest warrant issued by the learned X Assistant Judge was returned stating that the judgment debtor has retired from service and it is now found that the judgment debtor is residing at No.3/105, Sivankoil Street, Neelankarai, Thiruvannamiyur, Chennai-600 041 which is outside the jurisdiction of the City Civil Court, Chennai. Hence, the E.P. pending on the file of City Civil Court, Chennai does not have jurisdiction, as the judgment debtor has moved out of the jurisdiction of the Court. The decree itself had become time-barred, as more than twelve years have gone, the same cannot be transferred. Hence, the petitioner has filed the above transfer petition to transfer E.P.No.1974 of

2012 pending before the learned X Assistant Judge, City Civil Court, Chennai to the file of learned District Munsif Court, Alandur, Kancheepuram District to pursue the E.P.

3. A reading of Section 24(3)(b) of the Code of Civil Procedure clearly states that "proceeding" includes a proceeding for the execution of a decree or order. As it is stated that the decree itself is more than twelve years and E.P. is also of the year 2012, in the interest of justice, this Court is inclined to transfer the E.P. as prayed for.

4. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and E.P.No.1974 of 2012, pending on the file of X Assistant City Civil Court, Chennai shall stand withdrawn and transferred to the file of District Munsif Court, Alandur, Kancheepuram District. No Costs.

sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

rsi

To

1. The X Assistant Judge,
City Civil Court, Chennai.
2. The District Munsif Judge,
Alandur, Kancheepuram District.

+ 2 C.C. to M/S.T.P.Kathirraavan Advocate SR.NO.74090

सत्यमेव जयते

Tr.C.M.P. No.260 of 2014

SAI[CO]
RR 23/11/2017

WEB COPY