

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.10.2017

Coram

The Hon'ble Mrs. Justice PUSHPA SATHYANARAYANA

Tr.CMP.Nos.323 & 342 of 2014

and M.P.Nos.1 & 1 of 2014

1. Vijaya
2. Indirani

... Petitioners in
Tr.CMP.No.323/2014

R.Chandrasekaran

... Petitioner in
Tr.CMP No.342/2014

Vs.

1. R. Chandrasekaran
2. Madheswari
3. Manjula
4. Kalyani
5. Thiyaga Vijayan
6. Gokula Ananth
7. Suseela Kumarasamy

.. Respondents in
Tr.CMP.No.323/2014

1. Vijaya
2. Indirani

... Respondents in
Tr.CMP.No.342/2014

Prayer in Tr.CMP.No.323 of 2014: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C, to withdraw the suit in O.S.No. 209 of 2012 on the file of the learned Sub Court, Bhavani, Erode District and to transfer the same to the learned Sub Court, Sankari, Salem District for a joint trial along with O.S.No. 51 of 2014.

Prayer in Tr.CMP.No. 342 of 2014: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C, to withdraw the O.S.No. 51 of 2014 pending on the file of the Sub-Ordinate Court, Sankari, Salem District, Salem and to Transfer the same to the Sub-Ordinate Court, Bhavani along with O.S.No. 209 of 2012 pending on the file of the learned Sub-Ordinate Judge, Bhavani.

For Petitioners : Mr. N.Manokaran
(in Tr.CMP.No.323/2014)

For Petitioner : Mr. V.T.Balaji
(in Tr.CMP.No.342/2014)

For Respondent 1 : Mr. V.T.Balaji
For Respondents 2 & 3 : Not ready in notice
For Respondents 4 to 7 : No appearance
(in Tr.CMP.No.323/2014)

For Respondents : Mr. N.Manokaran
(in Tr.CMP.No.342/2014)

O R D E R

The Tr.C.M.P.No.323 of 2014 is filed by the plaintiff to withdraw the suit in O.S.No. 209 of 2012 on the file of the Sub Court, Bhavani, Erode District and to transfer the same to the Sub Court, Sankari, Salem District for a joint trial along with O.S.No. 51 of 2014.

2. The suit properties involved in both the suits are the same and the parties are also same. O.S.No.209 of 2012 on the file of the Sub Court, Bhavani, Erode District is filed for declaration of title, whereas, O.S.No.51 of 2014 on the file of Sub Court, Sankari, Salem District is more comprehensive suit, filed for partition. The parties are also closely related, however, fighting with enmity. Admittedly, the suit properties are situated in various places like Namakkal, Erode and Salem. It is the apprehension of the petitioners in Tr.CMP.No.323 of 2014, as per paragraph 5 of the affidavit filed in support of the petition, that the first respondent threatened the petitioners with dire consequences, if they attempted to appear before the Sub Court at Bhavani, Erode District. Only thereafter, it is stated that the other suit in O.S.No.51 of 2014 was filed on the file of Sub Court, Sankari, Salem District. Both the petitioners being women, apprehend to go to Sub Court, Bhavani, Erode District. Hence, the transfer is sought. The petitioner in other Tr.C.M.P.No.342 of 2014 is none other than the brother of the first petitioner/Vijaya. Both the parties in the transfer petitions are not seeing eye to eye and unable to agree for any convenient Court for trial. As the parties are closely related, this Court is of the opinion that it would be appropriate to transfer both the suits to any other Sub Court other than where they are pending.

3. Considering the proximity from the respective place of residence, this Court is of the opinion that O.S.No.209 of 2012 pending on the file of Sub-Court, Bhavani, Erode, may be withdrawn and transferred to the Sub-Court, Sankari, Salem, for joint trial with O.S.No.51 of 2014 which is already pending on the file of Sub-Court, Sankari, Salem. Accordingly, these Transfer Civil Miscellaneous Petitions are disposed of. No Costs. Consequently, the connected miscellaneous petitions are closed.

-sd/-
Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

raja

To

1. The Subordinate Judge, Bhavani,
Erode District.

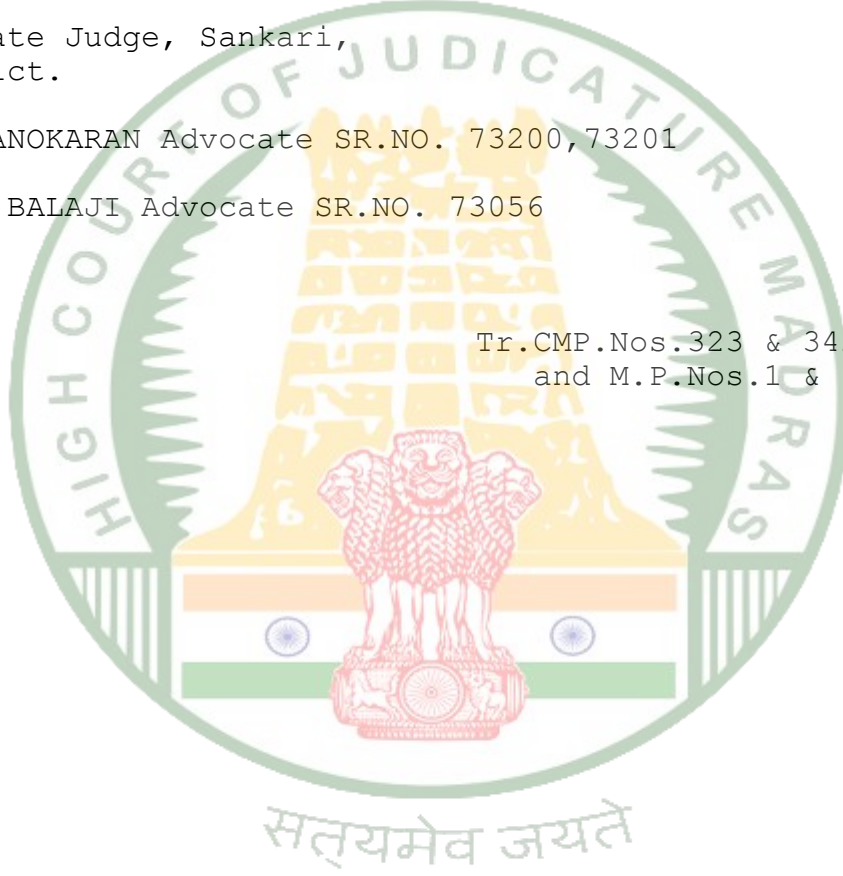
2. The Subordinate Judge, Sankari,
Salem District.

+2 cc to MR.N.MANOKARAN Advocate SR.NO. 73200,73201

+1 cc to MR.V.T.BALAJI Advocate SR.NO. 73056

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RD 10/11/2017



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