

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.109 of 2017
and C.M.P.No.1767 of 2017

D.M.Kadher Basha

... Petitioner

versus

1. D.M. Amir Akbar

2. D.A. Anwarul Asmath

... Respondents

Prayer: This transfer petition has been filed under Section 24 of C.P.C. praying to withdraw O.S.No.276 of 2016 pending on the file of District Munsif Court, Salem and transfer the same to the file of District Court, Dharmapuri to try along with O.S.No.41 of 2016.

For Petitioner : Mr.C.Prabakaran
For Respondent : Mr.V.R.Annagandhi

O R D E R

The defendant in O.S.No.276 of 2016 is the petitioner in the above Tr.C.M.P., which is filed under Order VII Rule 1 to 6 of C.P.C., on the file of District Munsif Court, Salem for injunction. There is another suit in O.S.No.41 of 2016, filed by the petitioner herein under Order VII Rule 1 to 6 of C.P.C., on the file of District Court, Dharmapuri for partition.

2. Admittedly, both the petitioner and respondents are parties in both the suits and the suit property in O.S.No.276 of 2016 on the file of District Munsif Court, Salem is also the subject matter in O.S.No.41 of 2016 on the file of District Munsif Court, Dharmapuri. O.S.No.41 of 2016 is the suit filed for partition which is more comprehensive by including all the parties and all the properties other than the suit properties in O.S.No.276 of 2016 also.

3. As the right, title and possession of the suit properties in O.S.No.276 of 2016 have to be decided in the other suit, it would be appropriate to transfer O.S.No.276 of 2016 from the file of District Munsif Court, Salem to District Court Dharmapuri, where O.S.No.41 of 2016 is pending.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondents. Though it is vehemently opposed by the respondents that the nature of both the suits are entirely different, as stated earlier, the parties and the properties are substantially same in the partition suit.

5. Accordingly, the Transfer Civil Miscellaneous Petition is allowed by withdrawing O.S.No.276 of 2016, pending on the file of the District Munsif Court, Salem and transferring the same to the file of the District Court, Dharmapuri to be tried along with O.S.No.41 of 2016. No Costs. Consequently, Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

1.
rsi
To

1. The District Munsif,
Salem.

2. The District Judge,
Dharmapuri.

+1cc to Mr.C.PRABAKARAN Advocate, S.R.No. 85306
+1cc to Mr.ANNA GANDHI, Advocate, S.R.No. 85216

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TR(20/12/2017)

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