

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE M. DURAISWAMY

Tr.C.M.P.No.13 of 2017 &
C.M.P.Nos.365 to 367 of 2017

1. Gothi Surana Educational Trust,
rep. by its Founder and Chairman
Bhawarlal Gothi, S/o. Lalchand Gothi,
No.13, Sothupakkam,
Darkash Road,
Pulliline, Red Hills,
Chennai 600 052.
 2. R.B.Gothi Jain College for Women,
rep. by its Correspondent,
No.13, Sothupakkam,
Darkash Road,
Pulliline, Red Hills,
Chennai 600 052.
 3. Ajit Kumar Gothi (Trustee),
S/o. Bhawarlal Gothi,
No.44, Kalathi Pillai Street,
Sowcarpet,
Chennai 600 079.
 4. Rajshree Gothi, (Trustee),
W/o. Ajit Kumar Gothi,
No.44, Kalathi Pillai Street
Sowcarpet, Chennai 600 079.
 5. Arihant Gothi (Trustee).
S/o.Ajit Kumar Gothi,
No.44, Kalathi Pillai Street,
Sowcarpet, Chennai 600 079.
- ... Petitioners/Plaintiffs

Vs.

1. Vishal Surana (Trustee),
S/o.Hastimal Surana,
94, M.C.Road, Old Washermanpet,
Chennai 600 021.

2. Vikash Surana (Trustee),
S/o.Hastimal Surana,
94, M.C.Road, Old Washermanpet,
Chennai 600 021.

3. Vaishali Surana (Trustee)
W/o. Vishal Surana,
94, M.C.Road, Old Washermanpet,
Chennai 600 021.

4. Vibha Surana (Trustee),
W/o.Vikash Surana,
94, M.C.Road, Old Washermenpet,
Chennai 600 021.

5. Hastimal Surana
S/o.Chainmal Surana
94, M.C.Road, Old Washermenpet,
Chennai 600 021.

... Respondents/Defendants

Tr.C.M.P. filed under section 24 of C.P.C., to transfer the proceedings in O.S.No.136 of 2016 pending on the file of the Subordinate Court, Ponneri to the file of the City Civil Court at Madras.

For Petitioners : Mr.R.Thiagarajan

For Respondents : Mr.V.Bhiman
for M/s.Sampath Kumar Asso.

O R D E R

The petitioners, who are the plaintiffs in O.S.No.136 of 2016 on the file of Subordinate Court, Ponneri, have filed the above Tr.C.M.P to transfer the suit in O.S.No.136 of 2016, pending on the file of Subordinate Court, Ponneri to the file of City Civil Court, Chennai.

2. The petitioners sought for transfer on the ground that there was no Presiding Officer posted at Ponneri. Further, it was contended by the petitioners that since there was no Presiding Officer, the suit is being adjourned periodically without reaching finality. Further, it was brought to the notice of this court that the plaintiffs have filed the applications in I.A.Nos.404 to 406 of 2016 in O.S.No.136 of 2016, seeking for the reliefs stated therein.

3. Mr.R.Thiagarajan, learned counsel appearing for the petitioners submitted that since there was no Presiding Officer during the relevant period, these applications were not taken up for hearing so far.

4. Mr.V.Bhiman, learned counsel appearing for the respondents submitted that the respondents-defendants have also filed an application raising a query with regard to maintainability of the suit.

5. This court, by order dated 27.02.2017, directed the Registry to verify as to whether any Judge is attending the Sub Court, Ponneri and for how many days in a week and put up a note with regard to the same.

6. Pursuant to the orders of this court, the Registry filed a report stating that the Sub Judge, Poonamallee is placed Full Additional Charge for the post of Sub-Judge, Ponneri during the period from 23.09.2016 A.N. to 22.11.2016 A.N., and subsequently, the Special Subordinate Judge, Special Court for MCOP cases, Tiruvallur is placed Full Additional Charge for the post of Sub Judge, Ponneri and the said Judge is sitting at the Sub-court, Ponneri (FAC) on every Friday during the said period.

7. Now it is brought to the notice of this court by the learned counsel on either side that permanent Sub Judge has been posted at Ponneri and he is functioning for the past three weeks, sitting on all days.

8. In view of the submissions made by the learned counsel on either side, I do not find any reason to entertain the present Transfer Civil Miscellaneous Petition and it is liable to be dismissed.

9. Mr.R.Thiagarajan, learned counsel appearing for the petitioners submitted that the Trial Court may be directed to dispose of all the applications in I.A.No.404 to 406 of 2016 and also the application filed by the respondent-defendant raising a query with regard to maintainability of the application within a time frame.

10. The learned counsel on either side expressed some urgency in the matter. In these circumstances, the parties shall file their counter in the above said applications on or before 07.04.2017. The Subordinate Judge, Ponneri, is directed to consider the counters to be filed by both the parties and dispose of all the applications on or before 18.04.2017.

With these observations, the Tr.C.M.P. is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Rj / kas

To

1. The Subordinate Judge,
Ponneri.
2. Do Through the Principal District Judge,
Thiruvallur District.

+2cc's to Mr.R.Thiagarajan, Advocate, S.R.No.19362
+1cc to Mr.Sampath Kumar & Associates, Advocate, S.R.No.19665

Tr.C.M.P.No.13 of 2017
&
C.M.P.Nos.365 to 367 of 2017

GJ II(CO)
CA(03/04/2017)



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