

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2017

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

Tr.C.M.P.No.229 of 2017 &
C.M.P.No.4091 of 2017

Alex Arulraj @ Alexander

... Petitioner

v.

- 1.Stalin Jayaraj
- 2.Philomina
- 3.Jaccob
- 4.Victoria
- 5.Sivakumar
- 6.Mohammed Bazurulla

- 7.The District Collector
Nagapattinam
The Collectorate, Nagapattinam
Nagapattinam District.

... Respondents

Tr.C.M.P. filed under section 24 of C.P.C., to withdraw and transfer the above suit in O.S.No.27 of 2010 pending on the file of the District Court at Nagapattinam to the file of the District Court at Thanjavur or Thiruvarur or any other competent court.

For Petitioner : Mr.R.Krishnakumar

O R D E R

The 2nd defendant in O.S.No.27 of 2016 on the file of District Court, Nagapattinam, has filed the above Tr.C.M.P. to withdraw the suit in O.S.No.27 of 2010 pending on the file of District Court at Nagapattinam to the file of District Court at Thanjavur or Thiruvarur or any other competent court.

2. The learned counsel appearing for the petitioner submitted that except the 2nd defendant, the other parties entered into compromise and also filed a memorandum of compromise before the Trial Court and the Trial Court even without passing the preliminary decree has appointed an Advocate

Commissioner for dividing the suit property, hence, the suit should be transferred to some other court.

3. When the Trial Court had passed the incorrect and erroneous order, the remedy available to the petitioner-2nd defendant is to challenge the said order in accordance with the provisions of law. In the case on hand, the 2nd defendant has not challenged the order passed by the Trial Court. Instead, he has filed the above petition for transferring the suit from the file of Trial Court to some other Court. The averments stated in the affidavit filed in support of the petition cannot be accepted for transferring the suit to the file of some other court.

4. In these circumstances, I do not find any merit in the Tr.C.M.P and is liable to be dismissed. Accordingly, the Tr.C.M.P. is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Rj

1.The District Judge,
Nagapattinam

2.The District Collector
Nagapattinam
The Collectorate Nagapattinam
Nagapattinam District

+1 cc to M/s.S.M.Raghuram Advocate sr 14580

Tr.C.M.P.No.229 of 2017 &
C.M.P.No.4091 of 2017

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