

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.322 of 2017  
and C.M.P.Nos.6089 & 6090 of 2017

1. Nirmala
2. D. Varadarajan
3. Y. Vijayakumari

... Petitioners

versus

Jacob Nixon

... Respondent

Prayer: This transfer petition has been filed under Section 24 of C.P.C. praying to withdraw O.S.No.11 of 2007 on the file of the District Munsif Court, Tambaram and transfer the same to the Sub Court, Kancheepuram for being tried along with O.S.No.170 of 2005, Sub Court, Kancheepuram.

For Petitioners : Mr.D.Shivakumaran  
For Respondent : Mr.D.Murthy

O R D E R

The defendants in O.S.No.170 of 2005 have filed this transfer Civil Miscellaneous Petition, seeking transfer of O.S.No.11 of 2007, pending on the file of District Munsif Court, Tambaram to the file of Sub Court, Kancheepuram to be tried along with O.S.No.170 of 2005.

2. The respondent/plaintiff has filed the suit in O.S.No.170 of 2005 under Order VII Rule 1 of C.P.C., before the Sub Judge, Kancheepuram for specific performance of the agreement dated 15.04.2005. There is one another suit in O.S.No.11 of 2017 filed by the very same respondent/plaintiff under Order VII Rule 1 of C.P.C., before the District Munsif Judge, Tambaram for permanent injunction. Earlier, there was an ex-parte decree passed on 11.08.2006 in O.S.No.170 of 2005, which was taken up to Supreme Court and the ex-parte decree was set aside. Now, transfer is sought for transferring O.S.No.11 of 2007, pending on the file of District Munsif Court, Tambaram to be tried along with O.S.No.170 of 2005, pending on the file of Sub Court, Kancheepuram.

3. It is stated in the affidavit filed in support of the petition that both the suits are with respect to same property and the parties are also the same. Hence, in order to avoid

multiplicity of proceedings, the joint trial is sought for by transferring the injunction suit.

4. Heard the learned counsel for the petitioners as well as learned counsel for the respondent. There is no objection for both the counsels to transfer O.S.No.11 of 2007, pending on the file of District Munsif Court, Tambaram to be tried along with O.S.No.170 of 2005, pending on the file of Sub Court, Kancheepuram.

5. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and O.S.No.11 of 2007, pending on the file of the District Munsif Court, Tambaram shall stand withdrawn and transferred to the file of Sub Court, Kancheepuram to be tried along with O.S.No.170 of 2005. No Costs. Consequently, connected miscellaneous petitions are closed.

-s/d-  
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

rsi

To

1. The District Munsif Judge,  
Tambaram.
2. The Sub Judge,  
Kancheepuram.

+1 CC to MR.D. Shivakumaran, Advocate sr 83520.

+1 CC to Mr.D. Murthy, Advocate sr 83748.

सत्यमेव जयते

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SSI(CO)  
SP(14/12/2017)