

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.693 of 2014
and M.P.No.1 of 2014

1. Ranjitha
2. Gowri .. Petitioners

-Vs-

1. K.Karuppuswamy
2. K.Ramasamy
3. R.Shanmugavel .. Respondents

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C praying to withdraw the O.S.No.1064 of 2013 on the file of the III Additional Sub Judge, Coimbatore and to transfer the same to the file of the Sub Court, Vedachandur to try along with O.S.No.309 of 2012.

For petitioner Mr.C.Prabakaran
For respondent-1 Mr.Karthi and Asath
for Mr.V.Nicholas
For respondents 2 & 3 Served-No appearance

O R D E R

The defendants 2 and 4 in O.S.No.374 of 2007 are the petitioners herein seeking transfer of O.S.No.1064 of 2013 on the file of the III Additional Sub Court, Coimbatore to the file of the Sub Court, Vedachandur to be tried along with O.S.No.309 of 2012.

2. O.S.No.374 of 2007 is filed by the first respondent/plaintiff before the Sub Judge, Tiruppur for the relief of specific performance of the agreement dated 18.12.2006. The said suit was administratively transferred to the III Additional Sub Court, Coimbatore and re-numbered as O.S.No.1064 of 2013. In the said suit, the petitioners have impleaded themselves as defendants 3 and 4 on the ground that the subject matter of the suit property is an undivided joint family property. There is another suit in O.S.No.263 of 2011 before the Sub Court, Dindigul, filed by the petitioners herein for partition and the same is re-numbered as

O.S.No.309 of 2012, which is now pending before the Sub Court, Vedachandur. Now, the petitioner has filed this Tr.C.M.P for transferring the specific performance suit in O.S.No.1064 of 2013 pending on the file of the III Additional Sub Court, Coimbatore to be tried along with O.S.No.309 of 2012 pending on the file of the Sub Court, Vedachandur.

3. Heard the learned counsel for the petitioner and the learned counsel for the first respondent/plaintiff. There is no appearance for respondents 2 and 3

4. As the cause of action in both the suits is different, a joint trial is not warranted. The petitioners have already been impleaded in O.S.No.1064 of 2013. Therefore, they cannot have any apprehension that the suit may be decided in their absence. Any decision in the partition suit will definitely have a bearing on the specific performance suit, but, that may not be a reason for transferring and permitting a joint trial.

5. As there are no merits warranting transfer, the Transfer Civil Miscellaneous Petition is dismissed. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

srn

To

1. The III Additional Sub Judge, Coimbatore
2. The Subordinate Judge, Vedachandur.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.77699
+1cc to Mr.V.Nicholas, Advocate, S.R.No.77469

Tr.C.M.P.No.693 of 2014
and M.P.No.1 of 2014

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