

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2017

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.381 of 2017
and C.M.P.No.7443 of 2017

Ramalingam

... Petitioner

Vs.

1.Karunanithi
2.Chellaperumal
3.Neelamegam
4.Mayajothi
5.Krishnaveni

... Respondents

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.390 of 2004 on the file of the District Munsif Court, Perambalur and transfer the same to the file of the District Munsif Court, Trichy.

For Petitioner : Mr.A.Panneerchelvam

O R D E R

This petition is filed to withdraw the suit in O.S.No.390 of 2004 on the file of the District Munsif Court, Perambalur and transfer the same to the file of the District Munsif Court, Trichy.

2. Heard the learned counsel for the petitioner and perused the materials available on record.

3. The petitioner is the first defendant, first respondent is the plaintiff, respondents 2 to 5 are the defendants 2 to 5 in O.S.No.390 of 2004 on the file of the District Munsif Court, Perambalur. The first respondent filed the suit for partition. The petitioner, respondents 2, 4 and 5 were set exparte. The third respondent/third defendant filed a memo for not pressing the written statement. A preliminary decree was passed on 29.09.2008. The first respondent filed I.A.No.723 of 2009 for passing of final decree. On receipt of notice in the final decree application, the petitioner filed I.A.No.724 of 2009 to set aside the preliminary decree passed against the petitioner. The said application was allowed on 28.10.2013. Subsequently, the fourth respondent/fourth defendant also filed I.A.No.390 of

2011 to set aside the exparte preliminary decree passed against her.

4. According to the petitioner, the learned Judge has mechanically condoned the delay in filing the petition to set aside the exparte preliminary decree and adjourned the suit on the ground that the applications filed by the first respondent and fourth respondent/fourth defendant in I.A.Nos.723 of 2009 and 390 of 2011 are pending for final hearing.

5. From the records, it is seen that this Court by order dated 23.12.2014 made in C.R.P.No.4984 of 2014 directed the learned Trial Judge to dispose the suit in O.S.No.390 of 2004 within a period of three months from the date of receipt of a copy of that order. At this stage, the petitioner has come out with the present transfer petition to transfer the suit from the District Munsif Court, Perambalur to District Munsif Court, Trichy, on the ground that the learned Judge has failed to comply with the order passed by this Court in C.R.P.No.4984 of 2014 dated 23.12.2014 and adjourned the suit. The reason given by the petitioner is not a valid reason and the transfer petition is dismissed as devoid of merits.

6. In the result, the Transfer Civil Miscellaneous Petition is dismissed. Considering the order passed by this Court in C.R.P.No.4984 of 2014, dated 23.12.2014, the learned District Munsif, Perambalur, is directed to dispose the suit in O.S.No.390 of 2004 after disposing the pending I.As., within a period of three months from the date of receipt of a copy of this order and also to file the compliance report before this Court. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1.The District Munsif Court, Perambalur.

2.The District Munsif,Trichy.

+1cc to Mr.A.Panneerselvam,Advocate sr.42796

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Copy to:
The Section Officer,
Judicial Section,
High court, Madras
(For Watching the compliance,
Report and posting the matter)

Tr.C.M.P. No.381 of 2017
and C.M.P.No.7443 of 2017

msm(co)
ss(5/7/2017)



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