

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.07.2017

C O R A M

The Honourable Mr.JUSTICE M. GOVINDARAJ

TR.CMP. No.576 of 2017 and
CMP.No.12085 of 2017

B.Sarala

..Petitioner

Vs.

1.S. Malliga

2.S. Uma

3.S. Settu

..Respondents

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code to withdraw the CMP.No.399 of 2017 in O.S.No.107 of 2014 pending on the file of the Principal District Munsif Court, Vellore and transfer the same to Principal District Munsif. Tiruvannamalai.

For Petitioner : Mr.J.Prakasam

O R D E R

This Transfer Civil Miscellaneous Petition has been filed praying to withdraw the CMP.No.399 of 2017 in O.S.No.107 of 2014, pending on the file of the Principal District Munsif Court, Vellore and to transfer the same to Principal District Munsif. Tiruvannamalai.

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

3. The learned counsel for the petitioner submitted that there exists lot of political pressure and the petitioner apprehends biased approach from the Lower Court. Hence seeks to withdraw the CMP.No.399 of 2017 in O.S.No.107 of 2014, pending on the file of the Principal District Munsif Court, Vellore and to transfer the same to Principal District Munsif. Tiruvannamalai.

4. From the print out of E-Court Website (about adjudications in the Court) produced by the learned counsel for the petitioner, it is seen that the adjudications memo as under:-

18.10.2016, 01.11.2016, 14.11.2016
22.11.2016, 13.12.2016, 16.12.2016
21.12.2016, 18.01.2017, 24.01.2017

When the case was taken up for hearing on 18.10.2016, it was observed that "As the matter was not settled at Lok Adalat, at the request of both side counsel, the matter was directed to be posted before the Court for trial on 01.11.2016". On 01.11.2016, " Both parties present and Joint Memo filed and for reporting settlement, the matter was adjourned to 14.11.2016." On 14.11.2016, at the request of the plaintiff, the matter was adjourned to 22.11.2016, for reporting settlement. On 22.11.2016, again the matter was adjourned to 13.12.2016, for reporting settlement. Again on 13.12.2016, no settlement was reported even after sufficient opportunities were given and hence the suit was adjourned to 16.12.2016 for trial. On 16.12.2016, again the matter was adjourned to 21.12.2016. On 21.12.2016, the suit adjourned to 18.01.2017 with a severe warning to the plaintiff that unless the plaintiff reports settlement on 18.01.2017, orders will be passed imposing costs for causing delay of trial. On 18.01.2017, against he plaintiff sought for time, for which a sum of Rs.5,000/-, was imposed as costs to be paid to the defendant, within three days and the matter was adjourned to 24.01.2017. Again on 24.01.2017, the plaintiff was present but not complied with the conditional order and therefore it is observed that she is not ready for trial and posted the matter "For Dismissal" on 30.01.2017. On 30.01.2017, since the conditional order was not complied with the suit was dismissed for default. Against which the petitioner has filed the restoration petition in C.M.P.No.399 of 2017. Thereafter, the present Transfer Civil Miscellaneous Petition has been filed before this Court seeking to withdraw the CMP.No.399 of 2017 in O.S.No.107 of 2014 pending on the file of the Principal District Munsif Court, Vellore and to transfer the same to Principal District Munsif. Tiruvannamalai.

5. The allegation by the petitioner, against the Presiding Officer is that, because of the written complaint given by her against the learned Principal District Munsif Court, the learned District Munsif, Vellore has dismissed the above suit. That if the suit is tried before the same Judge, the petitioner apprehends that he may not get the justice before him.

6. A perusal of Copy of E-Court Website about adjudications in the Court produced by the petitioner by way of typed set of papers, would go to show the conduct of the petitioner in protracting the proceedings under the pretext of settlement. The petitioner having failed in her attempt of protracting the proceedings further, has come up with this Transfer Civil

Miscellaneous Petition, making certain allegations on the Presiding Officer.

7. This Court considers it as a clear abuse of process of law and the petitioner does not deserve any sympathy. Eventhough, this Court is inclined to impose the costs, taking into consideration, the submission made by the learned counsel for the petitioner that the petitioner is a poor lady and she is not in a position to pay the costs, no cost is imposed.

8. In the result, this Transfer Civil Miscellaneous Petition is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

arr/gmd

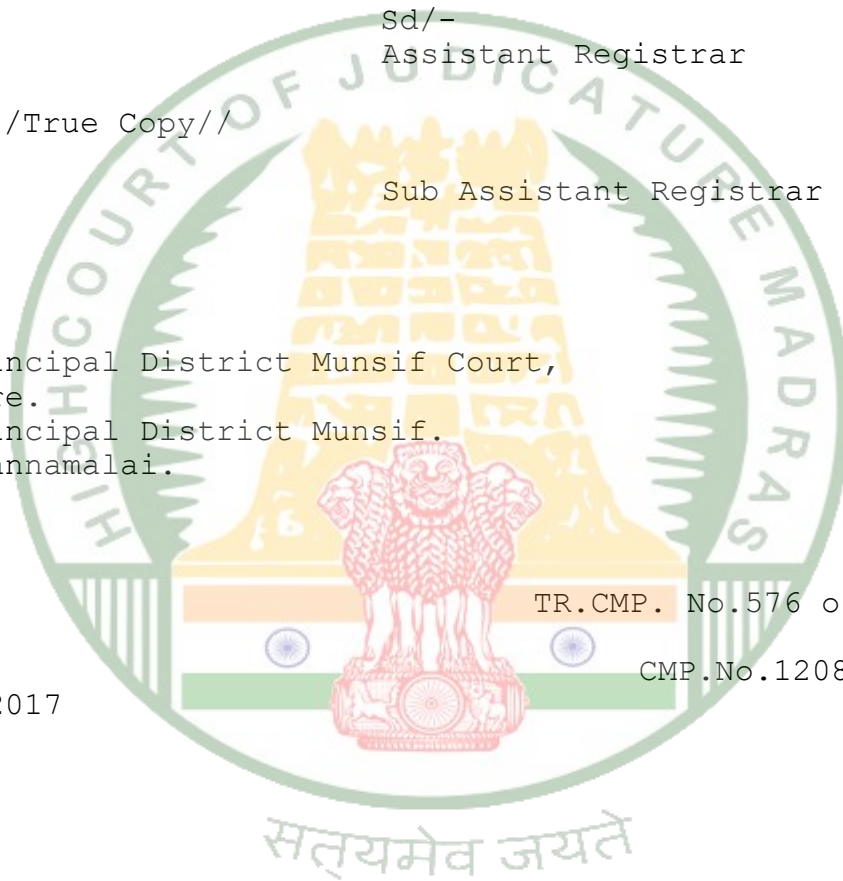
To

1. The Principal District Munsif Court,
Vellore.
2. The Principal District Munsif.
Tiruvannamalai.

TR.CMP. No.576 of 2017 and

CMP.No.12085 of 2017

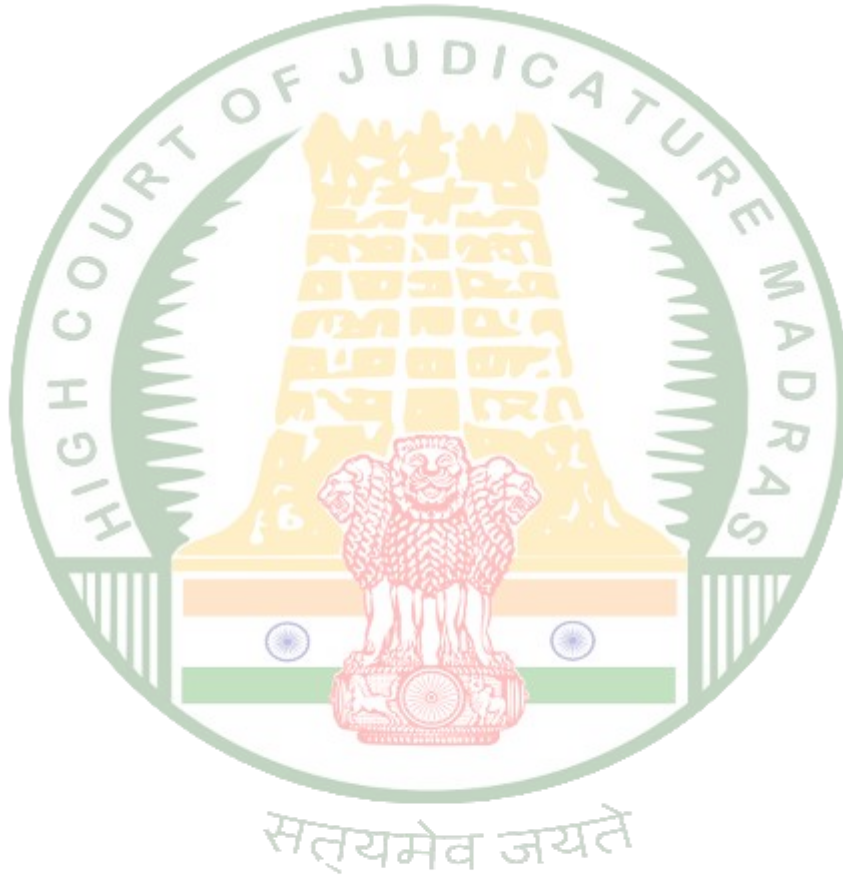
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