

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2017

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

TR.CMP.No.651 of 2016
and
C.M.P.No.17290 of 2016

M.Thangamuthu ... Petitioner /Defendant
vs

M.Jesudoss ... Respondent/Plaintiff

Prayer: Transfer Civil Miscellaneous petition filed under Section 24 of the Code of Civil Procedure seeking to withdraw the suit filed in O.S.No.202 of 2016 on the file of the Additional District Court, Tharapuram, Tiruppur District and to transfer the same to the file of the Additional District Court, Coimbatore, Coimbatore District.

For Petitioner : Mr.R.Prabhudoss

For Respondent : Mr.P.Valliappan

ORDER

The defendant is the petitioner in the above Transfer Civil Miscellaneous Petition. The above petition has been filed seeking to withdraw the suit filed by the respondent/plaintiff in O.S.No.202 of 2016, for recovery of money based on a promissory note, on the file of the Additional District Court, Tharapuram, Tiruppur District and to transfer the same to the file of the Additional District Court, Coimbatore, Coimbatore District.

2. It is stated by the petitioner that he is a senior citizen, aged 69 years old, and is ailing from chronic diseases, piles problems and kidney failure. Therefore, he has been advised by the Doctor not to travel long distance. It is further stated that the petitioner is residing in Mettupalayam, Coimbatore District and the suit is filed in Tharapuram, which is 120 kms away. Though the petitioner and the respondent are closely related to each other, they have enmity between them. Hence, the above petition has been filed seeking transfer of the

suit filed by the respondent on the file of the Additional District Court, Tharapuram, to the file of the Additional District Court at Coimbatore, which is closer to his place of residence, on medical grounds.

3. The above transfer sought for by the petitioner is vehemently opposed by the respondent denying the ailments stated by the petitioner. According to the respondent, the suit being filed in the District Court, there is no necessity for the party to attend each and every hearing. It is only for letting in evidence the party has to be personally present. It is also pointed out by the learned counsel for the respondent that the medical certificate produced by the petitioner is from a hospital in Kangeyam, which is also quite far away from Mettupalayam. Therefore, it is submitted that when the petitioner could travel for the sake of his treatment to such far off place, he could as well travel to the Court at Tharapuram. Accordingly, he prayed for the dismissal of the transfer petition.

4. Heard both sides.

5. On a perusal of the typed set of papers, it is seen that the petitioner is a senior citizen and that the transfer is sought for, quoting his inability to travel to Tharapuram due to his ill health. Further this Court of the view that no serious prejudice would be caused to the respondent, if the suit is transferred to the file of the Additional District Court at Coimbatore. Moreover, the suit being filed only for recovery of money, with the co-operation of the parties, the same may be completed as early as possible.

6. Considering the rival submissions made by the parties and the facts and circumstances of the case, this court is inclined to allow the transfer petition. Accordingly, the suit filed by the respondent in O.S.No.202 of 2016 and pending on the file of the learned Additional District Judge, Tharapuram, Tiruppur District is withdrawn and transferred to the file of the Additional District Court, Coimbatore, Coimbatore District. The Additional District Court, Tharapuram is directed to send all the papers pertaining to the above suit to the Additional District Court, Coimbatore, immediately, on receipt of a copy of this order.

7. This Transfer Civil Miscellaneous Petition is ordered accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Additional District Judge,
Tharapuram, Tiruppur District.
2. The Additional District Judge,
Coimbatore, Coimbatore District.

+1cc to Mr.P.Valliappan, Advocate sr.4638

+1cc to Mr.R.Prabhudoss, Advocate SR.4940

TR.CMP.No.651 of 2016

kj[col]
srg 3/2/2017

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