

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.01.2017

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.Nos.697 and 698 of 2016

1. A.Anandan
2. A.Pattabiraman
3. Sulochana
4. J.R.Mahendran
5. J.Viswanathan
6. J.Anbarasu
7. A.Harikrishnan
8. A.Vinayagamurthy
9. Malliga
10. Padmini
11. Jayaprakash
12. P.Chandrasekaran ...Petitioners in Tr.C.M.P.No.697 of 2016

1. A.Pattabiraman
2. A.Anandan
3. Sulochana
4. J.R.Mahendran
5. J.Viswanathan
6. J.Anbarasu ...Petitioners in Tr.C.M.P.No.698 of 2016

Vs.

Gurunathan died represented by

1. Gnanam
2. Padmavathy
3. G.Kamalakanan ...Respondents in Tr.C.M.P.No.697 of 2016

1. G.Kamalakanan
2. Gnanam
3. Padmavathy
4. D.Viswabharathy ...Respondents in Tr.C.M.P.No.698 of 2016

Petitions filed under Section 24 of the Civil Procedure Code praying to withdraw the suit in O.S.No.1 of 2011 and O.S.No.284 of 2015 respectively from the file of the Sub Court, Poonamallee, Tiruvallur District and transfer the same to the City Civil Court at Chennai for hearing the same along with the suit O.S.Nos.7072 of 2014 on the file of the XIV Assistant City Civil Court, Chennai.

For Petitioners
in both Tr.C.M.Ps : Mr.V.Rajendran
For Respondents
in both Tr.C.M.Ps : Mr.S.Dalit Tiger C.Ponnusamy

C O M M O N O R D E R

There are two Transfer Civil Miscellaneous Petitions. O.S.No.1 of 2011 is filed on the file of the Subordinate Judge, Poonamallee seeking relief of partition and separate possession. O.S.No.7072 of 2014 is filed by the respondents in the previous suit as plaintiffs on the file of the XIV Assistant City Civil Court, Chennai for the relief of damages and permanent injunction. The same parties had filed O.S.No.284 of 2015 on the file of the Sub Court, Poonamallee for declaration that the deed of relinquishment dated 06.02.2012 is null and void and for other reliefs.

2. O.S.No.1 of 2011 and O.S.No.284 of 2015 are pending before the Sub Court, Poonamallee and other suit in O.S.No.7072 of 2014 is pending before the XIV Assistant City Civil Court, Chennai.

3. Now, the petitioners in the above Tr.C.M.Ps have sought for transfer of O.S.No.1 of 2011 and O.S.No.284 of 2015 pending on the file of the Sub Court, Poonamallee to be transferred to the XIV Assistant City Civil Court, Chennai to be tried along with O.S.No.7072 of 2014 pending on the file of the XIV Assistant City Civil Court, Chennai.

4. Heard both sides.

5. The only reason argued by the learned counsel for the petitioners is that the fourth respondent is an Advocate practicing in Poonamallee, who has influence to divert normal process of the Court and indulged in illegal activities earlier. Therefore, the petitioners have had no hope of getting fair justice in the Court of local jurisdiction where the fourth respondent is practicing as an Advocate.

6. The said allegations are opposed by the learned counsel for the respondents.

7. The allegation of the petitioners in the transfer Civil Miscellaneous Petitions is that one of the respondents is an Advocate practicing in Poonamallee and therefore he will be more influential in the local Court, is unfounded and cannot be restrained. Any Advocate is free to carry on his profession any where in India. Therefore, the apprehension of the petitioners, is unsustainable. In fact, the petitioners themselves have filed the other suit O.S.No.284 of 2015 only on the file of the Sub Court, Poonamallee based on the territorial jurisdiction. Only one suit is filed before the

City Civil Court, which is for the relief of injunction for the reasons best known to them. The learned counsel for the petitioners also pointed out that the F.I.Rs are being filed against the respondents.

8. Considering the arguments advanced on both sides, this Court is of the view that all the three suits may be transferred to a Court outside the Tiruvallur District. Learned counsel appearing for the respondents also has got no serious objection for the same.

9. Accordingly, O.S.No.1 of 2011 and O.S.No.284 of 2015 pending on the file of the Sub Court, Poonamallee and O.S.No.7072 of 2014 pending on the file of the XIV Assistant City Civil Court, Chennai are withdrawn and transferred to be tried on the file of the Sub Court, Kancheepuram. The parties are at liberty to adduce evidence in any one of the suits as may be directed by the Sub Court, Kancheepuram.

10. With the above said observations, the Tr.C.M.Ps are disposed of. No costs.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1. The Sub Court, Poonamallee, Tiruvallur District
2. The XIV Assistant City Civil Court, Chennai.
- 3.The Subordinate Court, Kanchipuram.

+1 cc to M/s.V.Rajendran,advocate,sr.2735.

+1 cc to M/s.V.Rajendran,advocate,sr.2735 [1/3/2017]

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