

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2017

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

TR.CMP.No.756 of 2016

and

C.M.P.No.19431 of 2016

V.Suryakumar

... Petitioner

vs.

1. K.Balakrishnan

2. K.Indumathi

3. V.Varalakshmi

4. The Sub Registrar
Sub Registrar Office,
Thiruvallur

5. The District Collector
Thiruvallur

... Respondents

Prayer: This Transfer Civil Miscellaneous Petition filed under Section 24 (b)(ii) of C.P.C, praying to withdraw and transfer the proceedings pending on the file of the District Munsif Court at Thiruvallur in O.S.No.268 of 2015 to the file of the I Assistant City Civil Court, Chennai to hear along with O.S.No.4262 of 2014.

For Petitioner : Mr.C.P.Hemkumar for

M/s.Ganesh and Ganesh

For Respondents 1 &2: Mr.G.Thangavel

For Respondents 3 &4: Served - No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the O.S.No.268 of 2015 on the file of the District Munsif Court, Thiruvallur and transfer the same to the file of the I Assistant City Civil Court, Chennai, to be tried along with O.S.No.4262 of 2014.

2. O.S.No.268 of 2015 is filed by the respondents 1 and 2 herein before the District Munsif, Thiruvallur for declaration that the cancellation of settlement deed dated 07.10.2014 is void and for consequential injunction.

3. O.S.No.4262 of 2014 is filed by the petitioner herein on the file of the I Assistant City Civil Court, Chennai for the relief of declaration that the cancellation of settlement deed dated 21.04.2014 is void and for other reliefs.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondents 1 and 2.

5. Learned counsel appearing for the respondents 1 and 2 contended that they had filed an application under Order VII Rule 11 of C.P.C to reject the plaint in O.S.No.4262 of 2014 as not maintainable. However, the said application was dismissed and the same is under challenge in C.R.P.No.3920 of 2017.

5. Be that as it may. Now, the transfer is sought for, to avoid any conflict in decisions, as the parties to the suit and prayer sought for therein are the same.

6. Admittedly, the properties which are the subject matter of the suit and parties in both the suits are same. As both the parties in the suit are challenging the cancellation of settlement deeds on various dates, in order to reach a logical conclusion, it would be appropriate to transfer the subsequent suit in O.S.No.268 of 2015 to be tried along with O.S.No.4262 of 2014. In the event, the Civil Revision Petition is allowed by this Court, the suit would automatically get rejected. Hence, considering the fact that O.S.No.4262 of 2014 is filed prior in point of time, the subsequent suit in O.S.No.268 of 2015 filed on the file of the District Munsif, Thiruvallur is ordered to be transferred to the file of the I Assistant City Civil Court, Chennai, to be tried along with O.S.No.4262 of 2014.

7. In view of the above, the transfer Civil Miscellaneous Petition is allowed and O.S.No.268 of 2015 pending on the file of the District Munsif Court, Thiruvallur shall stand withdrawn and transferred to the file of the I Assistant City Civil Court, Chennai to be tried along with O.S.No.4262 of 2014. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

srn

To

1. The District Munsif Judge, Thiruvallur
2. The I Assistant Judge, City Civil Court , Chennai

+1cc to Mr.Ganesh & Ganesh Advocate, S.R.No. 79760

+1cc to Mr.G.Thangavel Advocate, S.R.No. 80212

+1cc to Mr.Ganesh & Ganesh Advocate, S.R.No. 79760
(15/12/2017)

TR.CMP.No.756 of 2016
and

C.M.P.No.19431 of 2016

TR(06/12/2017)

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