



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :13.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
Tr.C.M.P(MD)No.445 of 2015

and
M.P(MD)No.1 of 2015

N.Mariappan

...Appellant/Respondent

Vs.

1.C.D.Alagiri Raj

... Respondent/Petitioner

2.The Asst.General Manager,
Bank of Baroda,
Tatabad,
Coimbatore-641012.

3.Mrs.Dr.N.Mariammal Devaraj

4.Mrs.N.Gomathi kasirajan

...Respondents/Respondents

Petition filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer Succn.O.P.No.11 of 2014 on the file of the Sub-Court, Coimbatore to the Principal District Court, Virudhunagar and tried along with O.S.No.3 of 2015 pending before the Principal District Court, Virudhunagar District at Srivilliputhur.

For Petitioner

: Mr.A.Sivaji

For R1&R3

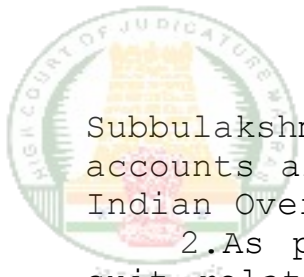
: Mr.R.Venkadesan

For R2 and R4

:No appearance

ORDER

The petitioner seeks transfer of the Succn.O.P.No.11 of 2014 filed by the first respondent before the Sub-Court, Coimbatore. The said Succn.O.P has been filed seeking a succession certificate for the estate of one M.Subbulakshmi. The first respondent, who is the petitioner in this Succn.O.P would claim that he was treated as a son by the said Subbulakshmi. Therefore, he is entitled to get succession certificate. The petitioner, who is the brother of the said Subbulakshmi, has filed a suit in O.S.No.3 of 2015 on the file of the Principal District Court, Virudhunagar District at Srivilliputhur for a direction to defendants No.1, 2 and 4 to pay a sum of Rs.12,04,633-65/- with subsequent interest of Rs.9,49,527.32/- at 12% p.a from the date of petition till the date of realization. The said sum represents the 1/3rd share of the plaintiff in the estate of the said Subbulakshmi, who is the sister. It is an admitted fact that the said Subbulakshmi died as a spinster. In the cause of auction for the suit, it is alleged that the said Subbulakshmi died, while she undertook Kailash Yatra. It is not in dispute that the said



Subbulakshmi was a permanent resident of Coimbatore and her bank accounts are also in Coimbatore. The 4th respondent in the suit is Indian Overseas Bank, Idikarai Branch, Coimbatore.

2.As per Section 19 of the Code of the Civil Procedure, the suit relating to movable property can be filed only on the place where the defendant resides or carries on business. Undoubtedly, in this case, the first and the second defendants are residing at Coimbatore and the 4th defendant is also doing business at Coimbatore. Therefore the jurisdiction of the Court of Srivilliputhur to entertain the suit itself is questionable.

3.In such circumstances, I deem it fit to transfer the suit in O.S.No.3/2015 pending on the file of Principal District Court, Virudhunagar at Srivilliputhur to the file of the District Court, Coimbatore and the Succn.O.P pending on the file of the Sub-Court, Coimbatore is also transferred to the District Court, Coimbatore to be heard along with the suit in O.S.No.3/2015. The District Court, Virudhunagar at Srivilliputhur and Sub-Court, Coimbatore are directed to transmit the records in O.S.No.3/2015 and Succn.O.P.No.11/2014, to the file of the District Court, Coimbatore and on receipt of the same, the District Court, Coimbatore is directed to dispose of them as expeditiously as possible at any rate not later than eight months from the date of commencement of the proceedings in the transferee Court, considering the fact that the parties are senior citizens.

With the above direction, the Tr.C.M.P is disposed of. No costs. Consequently, connected C.M.P is also closed.

Sd/-

ASSISTANT REGISTRAR(WRITS)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

- 1.The Sub-Court,
Coimbatore.
- 2.The Principal District Court,
Virudhunagar.
- 3.The District Court,
Coimbatore.

+1 CC TO M/S/A.SIVAJI,ADVOCATE,SR NO.52101

+1 CC TO M/S.RIGHT LAW ASSOCIATES, SR NO.51912

NS/rmi

MAS/RR/SAR3:02.05.2017:2P-6C

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and
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