



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Tr.CMP(MD) Nos.104 and 105 of 2017
and
CMP(MD) Nos.2475 and 2476 of 2017

Tr.CMP(MD) No.104 of 2017:

Shiekdawood, ... Petitioner/Petitioner/Appellant

Vs.

Pandi ... Respondent/Respondent/Respondent

PRAYER: Petition filed under Section 24 of Civil Procedure Code, praying to withdraw and transfer I.A.34 of 2017 in A.S.No.4 of 2015 on the file of SubCourt,Devakottai to the Principal SubCourt, Madurai.

For Petitioner : Mr.K.P.Narayanakumar

For Respondent : Mr. AR.L.Sundaresan
Senior Counsel
for M/s.AL.Gandhimathi

Tr. CMP(MD) No.105 of 2017:

Shiekdawood ... Petitioner/Petitioner/Appellant

Vs.

Pandi ... Respondent/Respondent/Respondent

PRAYER: Petition filed under Section 24 of Civil Procedure Code, praying to withdraw and transfer I.A.35 of 2017 in A.S.No.4 of 2015 on the file of SubCourt,Devakottai to the Principal SubCourt, Madurai.

For Petitioner : Mr.K.P.Narayanakumar

For Respondent : Mr. AR.L.Sundaresan
Senior Counsel
for M/s.AL.Gandhimathi

**COMMON ORDER**

The petitioner, who is the appellant in A.S.No.4 of 2015 has come forward with these petitions seeking transfer of I.A.Nos.34 and 35 of 2017 filed by him to restore the appeal in A.S.No.4 of 2015 and I.A.No.20 of 2016, which were dismissed for default on 13.02.2017.

2. According to the petitioner, the learned Subordinate Judge has insisted that the appeal in A.S.No.4 of 2015 and I.A.No.20 of 2016 filed by him, seeking to let in additional evidence should be argued together. Stating the same reason, the petitioner has moved the District Court, Sivagangai in Tr.O.P.No.9 of 2016 and the same came to be dismissed on 20.01.2017.

3. It has been the consistent view of the Court that an application for letting additional evidence has to be heard along with the appeal. Therefore, there is nothing wrong in the learned Subordinate Judge insisting that the appeal as well as the application for additional evidence in I.A.No.20 of 2016 should be argued together.

4. The other ground, on which transfer is sought for, is that the learned Subordinate Judge is showing extreme urgency in hearing the appeal and therefore the petitioner suspects that he would not get justice.

5. Mr.AR.L.Sundaresan, the learned senior counsel appearing for the respondent, has given the dates on which the appeal was posted as shown in the e-portal from 16.03.2016. It is seen that the appeal was posted on 16.03.2016, 25.04.2016, 18.07.2016, 18.08.2016, 15.09.2016, 17.10.2016, 28.11.2016, 19.01.2017 and finally on 13.02.2017, the appeal was dismissed for default.

6. The above dates make it clear that the adjournments have not been given once in two days as alleged by the petitioner. It is submitted by the learned senior counsel appearing for the respondent that the allegations are very vague and on such allegations, the proceedings cannot be transferred from the jurisdictional Court to any other Court. According to him, the allegations are not sufficient to order transfer of the proceedings from the SubCourt, Devakottai to any other Court.

7. The records show that the claim, made by the petitioner regarding posting of the appeals by the learned Sub-Judge is also incorrect.

<https://hcservices.ecourts.gov.in/hcservices/>

8. Therefore, I do not find any merit in this petition. Hence this Transfer Civil Miscellaneous petitions are dismissed.



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No costs.
dismissed.

Consequently, connected miscellaneous petitions are

Sd/-

Assistant Registrar(CO)

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/True copy/

Sub Assistant Registrar

To

1.The Subordinate Judge,
Devakottai.

2.The Principal Subordinate Judge,
Madurai.

+1 cc to Mr.K.P.Narayanakumar , Advocate in SR.No. 59187

+1 cc to Mr.AL.Gandhimathi , Advocate in SR.No. 58998

sm/vsg

AE/SV MMS/SAR1/16.06.2017/3P/5C

Tr.C.M.P. (MD) Nos.104 & 105 of 2017
and
C.M.P. (MD) Nos.2475 & 2476 of 2017
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