



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

Tr.C.M.P(MD)No.110 of 2017
and
C.M.P. (MD) .No.2548 of 2017

1.V.Chola
2.V.Oyila

.. Petitioners

Vs.

1.A.Veerabathiran
2.A.V.Sivagnana Devi
3.The Regional Manager,
Central Bank of India,
1st Floor, Raja Muthia Mandram,
Dr.Ambethkar Road,
Madurai- 625 002.
4.The Recovery Officer,
Central Bank of India,
Madurai.

.. Respondents

.. Respondent

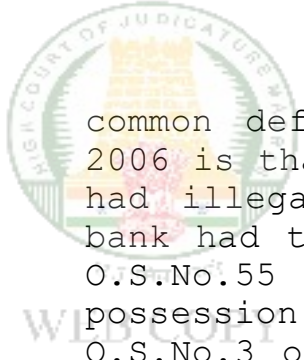
Prayer: This Transfer CMP is filed under Section 24 of Civil Procedure Code, praying to withdraw the suit in O.S.No.55 of 2006 pending on the file of the learned District Judge, Theni and to transfer the same to the learned III-Additional Subordinate Judge, Madurai to try along with the suit in O.S.No.3 of 2007 on the file of the learned III-Additional Subordinate Judge, Madurai, for joint trial.

For Petitioners : Mr.K.Hariharan

O R D E R

This petition has been filed to withdraw the suit in O.S.No.55 of 2006 pending on the file of the learned District Judge, Theni and to transfer the same to the learned III-Additional Subordinate Judge, Madurai to try along with the suit in O.S.No.3 of 2007 on the file of the learned III-Additional Subordinate Judge, Madurai, for joint trial.

2. The petitioners herein are the plaintiffs in both O.S.No.55 of 2006 and in O.S.No.3 of 2007. The first defendant is the father and the second defendant is the mother. They are the



common defendants. The claim of the plaintiffs in O.S.No.55 of 2006 is that the defendants, who are the parents of the plaintiffs had illegally mortgaged the suit properties with the Bank. The bank had thereafter initiated SARFAESI proceedings. At that stage O.S.No.55 of 2006 had been filed seeking partition and separate possession. After that the same petitioners/plaintiffs later filed O.S.No.3 of 2007 seeking an order of bare injunction in the III-Additional Subordinate Court, Madurai. Both the suits are nearly 10 years old. After 10 years the petitioners have come forward to this Court seeking transfer of the suit in O.S.No.55 of 2006 from the District Court at Theni to be tried along with the suit in O.S.No.3 of 2007, which is pending for arguments in the III-Additional Subordinate Court, Madurai. The said transfer petition is an abuse of process of Law and Court. The petitioners herein are attending to disrupt the legal proceedings after a period of 10 years.

3. I find no merits in this transfer petition. Hence this Transfer Civil Miscellaneous Petition is **dismissed**. No Costs. Consequently, connected miscellaneous petition is also dismissed.

4. However both the learned District Judge, Theni is directed to dispose of O.S.No.55 of 2006 on or before 30.06.2017. It is represented that the matter is at the trial stage. The learned District Judge, Theni is directed to conduct the trial on a day-to-day basis after framing of issues. If any adjournments are necessary, the learned District Judge, Theni can grant a maximum of three working days in between any two adjournments.

5. The learned III-Additional Subordinate Judge, Madurai, before whom O.S.No.3 of 2007 is pending for arguments, is directed to hear the arguments on day-to-day basis and if any petition had been filed, to hear the said applications along with the main Suit including the applications for impleading parties. If adjournment are required during arguments, the III-Additional Subordinate Judge, Madurai can grant a maximum of three working days in between any two adjournments. The III-Additional Subordinate Judge, Madurai is directed to complete the trial on or before 28.04.2017.

6. Both the learned District Judge, Theni and the learned III-Additional Subordinate Judge, Madurai are also required to send a report regarding the progress of the case once in every three weeks to this Court.

Sd/-

Assistant Registrar(P&A)

/True Copy/



To

1.The District Judge, Theni.

2.The III-Additional Subordinate Judge, Madurai.

3.The Section Officer,
Miscellaneous filing Section,
Judicial Department,
Madurai Bench of Madras High Court, Madurai.
[for watching the report]

+1cc to Mr.K.Hariharan, Advocate, SR.No.15403

Tr.C.M.P(MD)No.110 of 2017
17.03.2017

PJL

JM-SKN/27.3.2017/3P-5C