



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.09.2017
CORAM

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

TR.C.M.P (MD) Nos.237 of 2017 & 252 to 268 of 2017
and
C.M.P (MD) Nos.5656, 5977 to 5993 of 2017

WEB COPY

M.Thavamani

...Petitioner in all Cases/
Plaintiff

Vs.

Sabanayagi Begum	... 1 st Respondent in Tr.CMP (MD) No.237/17
Maithen Beevi	...1 st Respondent in Tr.CMP (MD) No.252/17
Saharbhan Beevi	... 1 st Respondent in Tr.CMP (MD) No.253/17
Kathar Beevi	...1 st Respondent in Tr.CMP (MD) No.254/17
Sabiyath Nisha	...1 st Respondent in Tr.CMP (MD) No.255/17
Asrab Nisha	...1 st Respondent in Tr.CMP (MD) No.256/17
Amsath	...1 st Respondent in Tr.CMP (MD) No.257/17
Ahamed Musthaba	...1 st Respondent in Tr.CMP (MD) No.258/17
Mohamed Saribu	...1 st Respondent in Tr.CMP (MD) No.259/17
Jeema Beevi	...1 st Respondent in Tr.CMP (MD) No.260/17
Ashath Begam	...1 st Respondent in Tr.CMP (MD) No.261/17
Noorul Heethaya	...1 st Respondent in Tr.CMP (MD) No.262/17
Seithoon Beevi	...1 st Respondent in Tr.CMP (MD) No.263/17
Ansari	...1 st Respondent in Tr.CMP (MD) No.264/17 and 1 st Respondent in Tr.CMP (MD) No.265/17
Subukunisha	... 1 st Respondent in Tr.CMP (MD) No.266/17
Faritha Begam	...1 st Respondent in Tr.CMP (MD) No.267/17
Abusalman	...1 st Respondent in Tr.CMP (MD) No.268/17

2.The Revenue Divisional Officer,

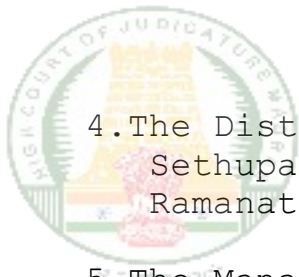
Lathams Bunglow Road, Ramanathapuram.

3.The Executive Engineer and Administrative Officer,

Tamil Nadu Housing Unit, K.T.M.Building 1st floor,

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

Vandikaran Street, Ramanathapuram.



4.The District Collector,
Sethupathi Nagar,
Ramanathapuram District.

5.The Managing Director,
Tamil Nadu Housing Board,
493, Annasalai, Nanthanam,
Chennai-35.

...2 to 5th Respondents/
Defendants in all cases

PRAYER: Transfer Civil Miscellaneous Petitions are filed under Section 24 of Civil Procedure Code to withdraw and transfer the O.S.No.35 of 2013, O.S.Nos.17/2017 to 33/2017 respectively from the file of the Additional District Court, Ramanathapuram, to the file of the District Court of any other District.

For Petitioner : Mr.G.Prabhu Rajadurai
(in all Cases) for M.Thirunavukkarasu

For R-1(in All Cases) : Mr.H.Lakshmi Shankar

For R-3
(in Tr.CMP.Nos.252 to 268/17) : Mr.K.S.Prakash

For R3 in Tr.CMP.No.237/2017) : Mr.R.Janarthanan

For R2, R4 & R5 : Mr.R.Velmurugan
(in All Cases) Government Advocate

COMMON ORDER

Since the issue involved in all the petitions is one and the same, all these Transfer Civil Miscellaneous Petitions are taken up together and disposed of by this common order.

2. These Transfer Civil Miscellaneous Petitions are filed to withdraw and transfer the O.S.Nos.35 of 2013 and 17 to 33 of 2017 from the file of the Additional District Court, Ramanathapuram to the file of the District Court of any other District.

3. The brief facts of the case are as follows:

(i)The petitioner is a practising Advocate at Ramanathapuram and he has conducted so many land acquisition cases. In consonance with the award passed in L.A.O.P.No.3 of 1999, a dispute arose between eighteen claimants and the land owners including the first respondents herein with regard to the professional fees payable to the petitioner. Thereafter, all the respondents including the first respondents herein, by their letter dated 12.09.2003 addressed to the petitioner, promised to pay 10% of the award amount, as fees to the petitioner. But, the

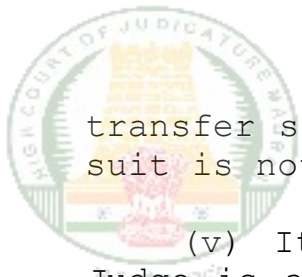


said amount was not paid to the petitioner as there was difference of opinion between the claimants, with regard to payment of fee to the petitioner. Hence, eighteen claimants sent a letter to the petitioner on 01.06.2010 stating that they have revoked the vakalat and further instructed the petitioner not to conduct the case on their behalf and for that, a suitable reply was sent by the petitioner on 25.06.2010. After exchange of the letters, the petitioner filed the suit in O.S.No.35 of 2013 before the Principal District Court, Ramanathapuram and other thirteen suits before the District Munsif Court, Ramanathapuram and four other suits before the Sub-Court, Ramanathapuram and in all the suits, the petitioner prayed for recovery of the professional fees from the claimants with interests at the rate of 11% and for permanent injunction against the respondents 2 and 3 therein from disbursing the amount, in case of failure in payment of professional fees to the petitioner.

(ii) It is the further case of the petitioner that O.S.No.35 of 2013 was transferred to the file of the Additional District Court, Ramanathapuram, by the proceedings of the Principal District Judge, Ramanathapuram. Hence, the petitioner filed Transfer Original Petitions before the Principal District Judge, Ramanathapuram, to transfer the seventeen suits pending before the District Munsif Court and the Sub-Court, Ramanathapuram, to the Additional District Court, Ramanathapuram, to try along with O.S.No.35 of 2013 and the said petitions were allowed. After the said transfer, there was no presiding Officer, till May 2017. After taking charge by the learned Presiding officer as the Additional District Judge, the O.S.No.35 of 2013 was came up for hearing on 02.06.2017 under the caption 'for trial'. After that, due to personal inconvenience, the petitioner could not make his appearance on 02.06.2017. Since except the case in O.S.No.35 of 2013, in all other cases, the records were not received, the presiding officer has called upon the case bundles in respect of the rest of seventeen cases.

(iii) Thereafter, when the case was posted on 07.06.2013, the petitioner's counsel filed a memo stating that he has returned the entire case bundle to the petitioner. Recording the said memo, the learned Judge issued a notice to the petitioner directing him to appear on 13.06.2017 either in person or through an advocate. The petitioner appeared on that day and the learned Judge directed the petitioner to conduct the trial. Since the petitioner was totally unaware of the receipt of remaining case bundles, the petitioner was constrained to file an adjournment petition under Order 17 Rule 1 C.P.C.

(iv) But, the learned Judge has adjourned the matter to the next day on a condition to pay cost of Rs.100/- towards each defendant in respect of O.S.No.35 of 2013. While the matter was adjourned, the petitioner filed proof affidavit, the petitioner filed an application to receive additional documents and the same was rejected. Thereafter, the petitioner filed a petition seeking



transfer stating that the learned Judge had predetermined that the suit is not maintainable.

(v) It is the grievance of the petitioner that the learned Judge is adjourning the case without giving breathing time to the petitioner. Therefore, it is just and necessary to transfer all the cases to the file of the District Court of any other District.

4. The learned counsel for the petitioner submitted that if the additional documents filed by the petitioner are not accepted, the petitioner will be put to serious prejudice since those documents are very much necessary for better adjudication. Since the learned Judge had refused to receive the additional documents, the petitioner has filed these transfer petitions and prayed that the same may be allowed.

5. The learned counsel for the first respondent in all the cases, submitted that the documents sought to be filed as additional documents had already been marked even at the time of filing of the suit. But, the said submission is disputed by the learned counsel for the petitioner.

6. The learned counsel for the first respondent in all the cases submitted that if the cases are transferred within the District of Ramanathapuram, they may not have any objection.

7. Taking into consideration of the facts and circumstances of the case and in the interest of justice, these Transfer Civil Miscellaneous Petition are allowed with the following directions:

(i) The learned Judge, Additional District Court, Ramanathapuram, is directed to transmit the entire records in O.S.Nos.35 of 2013 and 17 to 33 of 2017 to the file of the learned Principal District Judge, Ramanathapuram, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Principal District Judge, Ramanathapuram, after obtaining the records on transfer, is directed to dispose of O.S.Nos.35 of 2013 and 17 to 33 of 2017 as expeditiously as possible in accordance with law, within a period of six months.

No Costs. Consequently, Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar



To

1.The Additional District Judge,
Ramanathapuram.

2.The Principal District Judge,
Ramanathapuram.

3.The District Munsif, Ramanathapuram

4.The Subordinate Judge, Ramanathapuram

5.The Revenue Divisional Officer,
Lathams Bungalow Road,
Ramanathapuram.

6.The Executive Engineer and Administrative Officer,
Tamil Nadu Housing Unit,
K.T.M.Building 1st floor,
Vandikaran Street,
Ramanathapuram.

7.The District Collector,
Collectorate Building,
Sethupathi Nagar,
Ramanathapuram District.

8.The Managing Director,
Tamil Nadu Housing Board,
493, Annasalai, Nanthanam,
Chennai-35.

+One cc to The Special Government Pleader, SR.Nos.79581 and 79580

+One cc to Mr.M.Thirunavukkarasu, Advocate, SR.No.78996

+One cc to Mr.H.Lakshmi Shankar, Advocate, SR.No.79243

+One cc to Mr.R.Janarthanan, Advocate, SR.No.79129

pm

RL/13C/5P/KP/SAR1/11/10/2017

TR.C.M.P (MD) Nos.237 and 252 to 268 of 2017