

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 19.09.2017

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

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Tr.C.M.P(MD)No.300 of 2017**and****C.M.P(MD)Nos.6474 and 7787 of 2017**

1.S.Ramanathan

2.Vasanthi @ Vaijayanthi Mala ... Petitioners/Defendants

Vs.

Kalyanasundaram

... Respondent/Plaintiff

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the O.S.No.69 of 2013 on the file of the District Munsif Court, Sivagangai, and to transfer the same to the file of the District Munsif Court, Madurai.

For Petitioners : Mr.M.Veilkaniraju

For Respondent : Mr.T.Kumar

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the O.S.No.69 of 2013 from the file of the District Munsif Court, Sivagangai and to transfer the same to the file of the District Munsif Court, Madurai.

2. The petitioners would among other things aver that the respondent filed a suit in O.S.No.69 of 2013 on the file of the District Munsif Court, Sivagangai, seeking for the relief of declaration of title, for demolition of petitioners' building and for recovery of possession as per the title deed dated 14.03.1966.

3. The petitioners would further aver that the father of the second petitioner, namely one Vijayan purchased the property in S.No.73/4 measuring to an extent of 11 cents, from one Gothandapani Servai, in the name of the second petitioner during the year 1982 and constructed a house and compound wall and the measurement of the petitioners' property has been accepted in S.A.No.317 of 1989 also.

4. The learned counsel for the petitioner would submit that the petitioners filed an application in I.A.No.1043 of 2016 for rejection of plaint in O.S.No.69 of 2013. But, the Court below without considering the merits of the case, dismissed the said



application on 21.02.2017. Immediately, the petitioners applied for the order copy on 2.02.2017, but the order copy was issued only on 22.06.2017 ie., after four months. Therefore, the petitioners apprehend that the learned District Munsif, is acting in a biased manner and therefore, the petitioners have filed this Transfer Petition seeking transfer of the above said suit. The learned counsel also raised the ground that the learned Munsif does not have pecuniary jurisdiction to number the suit.

5. Per contra, the learned counsel for the respondent submitted that the allegation raised by the petitioners is not true as there were no sufficient staffs for issuing the order copy in time and therefore, the delay has been occurred. He further submitted that only to drag on the matter, instead of challenging the order passed in the interlocutory application, the petitioners have filed the present petition and therefore, this Transfer Civil Miscellaneous Petition is liable to be dismissed. He would further submit that if the learned counsel for the petitioners raised the ground of pecuniary jurisdiction, the petitioners could have moved the District Court.

6. Heard the submissions made on either side and perused the materials available on record.

7. Admittedly, there is a delay of four months in issuing the order copy and the learned Judge has proceeded with the case and the learned counsel for the petitioners as well as the learned counsel for the respondent accept the same. Without adverting to the allegations raised by the petitioners, this Court feels that ends of justice would be met if the suit is transferred to some other Court.

8. For that, both the parties agreed to transfer the case to the file of the learned Principal District Munsif, Maanamadurai, Sivagangai District.

9. In the result, this Transfer Civil Miscellaneous Petition is allowed with the following directions:

i) The learned District Munsif, Sivagangai, is directed to transmit the entire records in O.S.No.69 of 2013 to the file of the learned Principal District Munsif, Maanamadurai, Sivagangai District, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Principal District Munsif, Maanamadurai, Sivagangai District, after obtaining the records on transfer, is directed to dispose of O.S.No.69 of 2013, as expeditiously as possible, more particularly, within a period of three months, in accordance with law.



No Costs.
closed.

Consequently, connected Miscellaneous Petitions are

Sd/-

Assistant Registrar (AE)

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/True Copy/

Sub Assistant Registrar

To

1.The District Munsif Court,
Sivagangai.

2.The Principal District Munsif,
Maanamadurai,
Sivagangai District.

+1cc to M/S.T.KUMAR, Advocate SR.No.79650

pm

MAS/SV-MMS/SAR1:13.10.2017:3P-4C

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