



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :01.11.2017

CORAM :

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THE HONOURABLE MR.JUSTICE S.BASKARAN

Tr.CMP.(MD).No.358 of 2017

S.Rajaram ... Petitioner/Defendant-2

vs.

1.Lakshmi ... Respondent 1/Plaintiff

2.S.Arumugam (died)

3.Kaliyammal

4.S.A.Sankar Raja

5.A.Vijayasankar

6.A.Stalin

7.A.Lenin Chakkaravarthi ... Respondents/Defendants 3 to 7
(Respondents 3 to 7 are L.Rs of the deceased/2nd respondent
impleaded in I.A)

Prayer: Petition filed under Section 24 of C.P.C to withdraw the case in O.S.No.241 of 2009 on the file of the Additional District Munsif, Sankarankoil and transfer the same to the file of the Additional District Munsif, Tirunelveli.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.M.P.Senthil for R-1

ORDER

The petitioner/defendant No.2 has come forward with this petition seeking transfer of O.S.No.241 of 2009, pending on the file of the Additional District Munsif, Sankarankoil to the file of the Additional District Munsif, Tirunelveli.

2.The petitioner/2nd defendant states that O.S.No.241 of 2009 was filed by the first respondent/plaintiff herein seeking declaration and permanent injunction against the petitioner and other respondents in respect of the suit properties on the basis of the Will executed by the parents of this petitioner. It is stated by the petitioner that evidence was closed on both sides and the matter was posted for arguments on 09.11.2016 and the same is still pending. It is stated by both the counsels that no Presiding Officer is posted and as such, it will not be possible for the Incharge Judge to dispose of the matter. Hence, the petitioner seeks transfer of O.S.No.241 of 2009 from the Court of the



Additional District Munsif, Sankarankoil to the Court of the Additional District Munsif, Tirunelveli.

3.The learned counsel for the first respondent contended that it cannot be a ground for transfer and opposed the petition.

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4.A report was called for by this court from the Principal District Judge, Tirunelveli and as per the report, dated 23.10.2017, the Principal District Judge, Tirunelveli has stated that the post of Additional District Munsif, Sankarankovil is kept vacant from 02.07.2016 and presently, the Judicial Magistrate, Sankarankovil is holding full additional charge of Additional District Munsif, Sankarankovil from 21.09.2017.

5.In such circumstances, considering the fact that O.S.No.241 of 2009 is pending only for argument, it will be appropriate to give a direction to the Court concerned to dispose of the suit within the time limit and there is no need to transfer on the ground that there is no Presiding Officer in the said Court. The point is answered accordingly.

6.In the result, this Transfer Civil Miscellaneous Petition is disposed of with a direction to the Additional District Munsif, Sankarankovil to hear the arguments of both sides and dispose of O.S.No.241 of 2009, within a period of two months from the date of receipt of this order copy. No costs.

Sd/-

Assistant Registrar(P & A)

/True Copy/

Sub Assistant Registrar

To

The Additional District Munsif, Sankarankovil.

+1cc to M/s.M.P.SENTHIL Advocate in SR. No. 84916

VS

JS/KK/SAR.1/10.11.2017/2P-3C

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