



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE S.BASKARAN

Tr.C.M.P. (MD) No.425 of 2017

and

C.M.P. (MD) No.8603 of 2017

1.M.Chandrasekaran
2.N.Selvarani
3.D.Devadoss
4.D.Swarna Kumar
5.Ashok Kumar

... Petitioners/Plaintiffs

Vs.

Ramani Kanthammal (Died)

1.Jothi
2.J.Vasanthi
3.A.K.Mukundan
4.D.Parimala
5.R.Balakrishnan
6.D.Devi
7.R.Janaki
8.Logesh

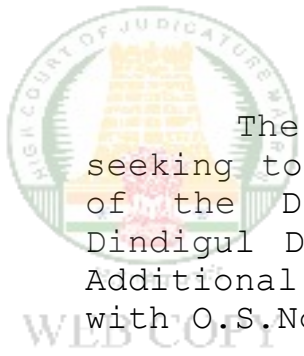
... Respondents/Defendants

(Respondents No.3 to 8 are
given up and the notice
may be Dispense with)

Prayer: This Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, praying to withdraw the suit in O.S.No.182 of 2005 on the file of the Learned District Munsif Cum Judicial Magistrate Court, Kodaikanal, Dindigul District and transfer the same to the Learned I Additional Subordinate Judge, Tiruchirappalli and tried along with O.S.No.222 of 1987 pending on the file of the I Additional Subordinate Judge, Tiruchirappalli and for other reliefs.

For Petitioner
For Respondents

: Mr.S.Vinayak
: Mr.M.U.R.Saravanakumar



The petitioners have come forward with this petition seeking to withdraw the suit in O.S.No.182 of 2005 from the file of the District Munsif Cum Judicial Magistrate, Kodaikanal, Dindigul District and to transfer the same to the file of the I Additional Subordinate Judge, Tiruchirappalli and to try along with O.S.No.222 of 1987 which is pending therein.

2.The petitioner states that he filed O.S.No.884 of 1994 on the file of the Subordinate Judge, Dindigul District, seeking declaration of title and permanent injunction, on the basis of the registered Settlement Deed, dated 05.04.1960 and the registered Will, dated 03.10.1986 of Late. Rajachidhambara Reddiar. Subsequently, the said suit was transferred to the Sub-Court, Palani and renumbered as O.S.No.118 of 1996 and thereafter, it was again transferred to the District Munsif-Cum-Judicial Magistrate Court, Kodaikanal and the same is pending as O.S.No.182 of 2005. While so, the first respondent herein has filed O.S.No.222 of 1987 on the file of the I Additional Subordinate Judge, Tiruchirappalli seeking the relief of declaration, that the registered Will dated 03.10.1986 executed by his grandfather namely Rajachidhambara Reddiar is forged and concocted one. The petitioner states that the parties in both the suits are one and the same and the issue involved is common and it relates to the genuineness of the Will dated 03.10.1986. Hence, he seeks transfer as stated above to avoid different judgments being given by the Courts below.

3.On the other hand, opposing the petition, the respondent contends that the petitioner has come forward with this petition only to drag on the proceedings and there is no need to transfer the suit as sought for by the petitioner. According to him, another suit in O.S.No.826 of 1987, seeking the relief of partition is also pending on the file of the I Additional subordinate Court, Tiruchirappalli and the same is also to be clubbed together and the respondent has no other serious objections.

4.In view of the reasons stated by the petitioner and the fact that the issue involved in both suits is the genuineness of the execution of the will dated 03.10.1986, it will be in the interest of the justice, that both the suits should tried together by one and the same court. It is further pointed out that already O.S.No.826 of 1987 is ordered to be clubbed along with O.S.No.222 of 1987 and as such, the petitioner has no objection to try all the three cases together. It is further stated that a direction was issued by this Court in C.R.P.(MD).No.2686 of 2014, dated 19.12.2014 to dispose the matter within the specific time limit. It is also stated that a further direction was issued by this Court in C.R.P.(MD)(PD).No.1137,1138 and 1139 of 2017, dated 19.06.2017 to dispose of O.S.No.222 of 1987 on or before 31.12.2017. Hence the I Additional Subordinate Judge, Tiruchirappalli, is directed to dispose of this suit in O.S.No.182



of 2005 on the file of the District Munsif-cum-Judicial Magistrate, Kodaikanal, Dindigul District, along with other suits.

5. In the result, this petition is allowed accordingly. Connected Miscellaneous Petition is closed.

WEB COPY

Sd/-
Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1. The I Additional Subordinate Judge,
Tiruchirappalli.
2. The District Munsif-cum-Judicial Magistrate,
Kodaikanal, Dindigul District.

+ 1 CC TO MR.S.Vinayak, ADVOCATE IN SR No.84171

tm/vsa

MK/KK/SAR-1/13.11.2017/3P/4C

Tr.C.M.P. (MD) No.425 of 2017
and
C.M.P. (MD) No.8603 of 2017
27.10.2017