

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 27.04.2017****CORAM:****THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN****TR.C.M.P. (MD) .Nos.584 and 585 of 2016
and****C.M.P. (MD) .Nos.12351 and 12352 of 2016****TR.C.M.P. (MD) .No.584 of 2016:**

K.T.Siva Shanmugam .. Petitioner
Vs.
1.P.K.Balasubramaniyan
2.Ramasamy .. Respondents

TR.C.M.P. (MD) .No.585 of 2016:

K.T.Siva Shanmugam .. Petitioner
Vs.
1.K.Palanisamy
2.Ramasamy .. Respondents

Common Prayer:- Transfer Civil Miscellaneous Petitions are filed under Section 24 of the Civil Procedure Code, to withdraw the suits in O.S.Nos.211 and 213 of 2016 pending on the file of the Sub Court, Karur and transfer the same for joint trial along with the suit in O.S.No.180 of 2015 on the file of the III Additional District Judge, Tiruchirappalli.

For Petitioner : Mr.Shangar Murali
in both petitions

For R1 : Mr.E.K.Kumaresan
in both petitions

For R2 : Mr.N.Satheesh Kumar
in both petitions

ORDER

These two transfer petitions have been filed by the defendant in O.S.Nos.211 and 213 of 2016 pending on the file of the Sub Court, Karur, seeking transfer to III-Additional District Court, Trichy, where a suit in O.S.No.180 of 2015 filed by the second respondent in these transfer petitions, namely one Ramasamy, on a mortgage.



2. Mr. Shangar Murali, learned counsel for the petitioner would contend that the first respondents in these transfer petitions namely, P.K.Balasubramaniyan and K.Palanisamy are money lenders and agents of the second respondent Ramasamy and the promissory notes entrusted with Ramasamy have been utilised for institution of these suits. Therefore, according to him, the suits in O.S.Nos.211 and 213 of 2016 pending on the file of the Sub Court, Karur should be transferred to be tried along with O.S.No.180 of 2015 pending on the file of the III-Additional District Court, Trichy.

3. Heard both sides and perused the materials available on record.

4. I am unable to countenance the submissions of the learned counsel for the petitioner. The suits pending on the file of the Sub Court, Karur are suits based on promissory notes and the plaintiffs therein are totally different persons. The suit filed at III-Additional District Court, Trichy is a suit based on mortgage, wherein it is stated that the execution of the mortgage is admitted and the dispute relates only to the amount due under the mortgage. In the suits filed at Sub Court, Karur in O.S.Nos.211 and 213 of 2016, the defendant claims that he does not even know the plaintiffs and the promissory notes have been created by the plaintiffs in collusion with the plaintiff in O.S.No.180 of 2015 that by itself cannot be a ground for transfer to enable a joint trial. It is open to the defendant to establish his defence in O.S.Nos.211 and 213 of 2016, before the Sub Court, Karur itself. There cannot be a transfer of suits instituted by total strangers that too to enable joint trial, on the allegation made by the defendant that the plaintiffs in the promissory note suits are the agents of the plaintiff in the mortgage suit. I do not find any reason to transfer the suits pending in Sub Court, Karur to III-Additional District Court, Trichy.

5. In the result, these transfer petitions are **dismissed**. No Costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

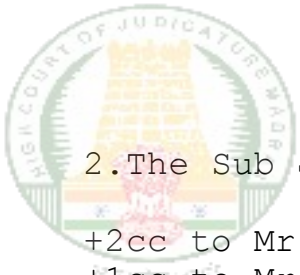
Assistant Registrar(CO)

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Sub Assistant Registrar

To

<https://hcservices.courts.gov.in/AsstJcs/>
 III-Additional District Judge,
 Tiruchirappalli.



2.The Sub Judge, Karur.

+2cc to Mr.Shangar Murali, Advocate Sr.No.54556 & 54557

+1cc to Mr.K.K.Kumaresan, Advocate Sr.No.54977

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TR.C.M.P. (MD) .No.584
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