

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.729 of 2017
and C.M.P.No.14834 of 2017

Ayyammal (died)
Allirani

... Petitioner

Vs.

S.Ayyasamy (died)

1.Saraswathi
2.Umadevi
3.Muthuselvi
4.Minor Kabileeswar

... Respondents

(Minor R4 Represented by next friend and
natural guardian Muthuselvi)

Prayer:- Petition has been filed under Section 24 of C.P.C., to
withdraw the suit in O.S.No.558 of 2005 pending on the file of
the District Munsif Court, Pollachi and transfer the same to the
file of the IV Additional District Court, Coimbatore and to try
along with the suit in O.S.No.514 of 2015 pending on its file.

For Petitioner : Mr.C.Veeraraghavan

For R1 to R3 : No appearance

R4 : Minor represented by R3

सत्यमेव जयते
O R D E R

This petition is filed to withdraw the suit in O.S.No.558 of
2005 pending on the file of the District Munsif Court, Pollachi
and transfer the same to the file of the IV Additional District
Court, Coimbatore and to try along with the suit in O.S.No.514
of 2015 pending on its file.

2.The petitioner is second plaintiff in O.S.No.558 of 2005
on the file of the District Munsif Court, Pollachi. The
petitioner along with her mother Ayyammal/first plaintiff filed
the said suit for declaration to declare the settlement deed
executed by one Marappa Gounder dated 30.04.1980 in favour of
the petitioner and the first plaintiff as valid and binding,

declare the Will dated 08.02.1976 as not valid and not binding on the petitioner and the first plaintiff and to declare the cancellation deed executed by Marappa Gounder dated 05.11.1969 as valid one and binding on all the parties, against the first defendant, one Ayyasamy, since deceased. The respondents 1 to 4 herein are the legal heirs of the deceased first defendant in O.S.No.558 of 2005.

3. According to the petitioner, the suit property belonged to one Marappa Gounder, who has settled the property for life of his daughter/first plaintiff and thereafter, on the petitioner, who is the daughter of the first plaintiff. On 05.01.1969, the said Marappa Gounder cancelled the earlier settlement deed dated 09.02.1966, which was executed in favour of the first defendant. The petitioner's mother has executed release deed dated 30.01.2015 and the petitioner has become absolute owner of the entire suit property. The petitioner has settled the suit property on her daughters viz., Nanthini Devi and Krithika by the settlement deed dated 25.02.2015. The petitioner's daughters filed O.S.No.514 of 2015 on the file of the IV Additional District Court, Coimbatore, for declaration that they are the absolute owners of the suit property as per the settlement deed dated 25.02.2015 bearing document No.1091/2015 and for injunction restraining the defendants 3 to 8 therein, who are the first plaintiff in O.S.No.558 of 2005, one Rayathal and the respondents 1 to 4 respectively, from interfering with their peaceful possession and enjoyment of the suit property. According to the petitioner, the suit property in both the suits is one and the same. The suit O.S.No.558 of 2005 is posted for trial for examination of the petitioner and at that stage, the petitioner has come out with the present Tr.C.M.P. to transfer O.S.No.558 of 2005 pending on the file of the District Munsif Court, Pollachi, to the file of the IV Additional District Court, Coimbatore and to try along with the suit in O.S.No.514 of 2015, which is pending on its file.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondents 1 to 3 and their names have been printed in the cause list, there is no representation on behalf of them either in person or through counsel. Fourth respondent, who is the minor, is represented by her mother/third respondent.

5. From the materials available on record, it is seen that the suit filed by the petitioner and her mother Ayyammal is of the year 2005 and it is ripe for trial and the suit filed by the petitioner's daughters is of the year 2015. The petitioner has not stated the stage of the suit O.S.No.514 of 2015. The petitioner has not impleaded all the parties in O.S.No.514 of 2015 as parties in the present Tr.C.M.P. Further, the petitioner has filed the present Tr.C.M.P., when the suit O.S.No.558 of

2005 filed by the petitioner was ripe for trial. The petitioner has not taken any steps for transfer the suit O.S.No.558 of 2005, when her daughters filed the suit O.S.No.514 of 2015. From the records in the present Tr.C.M.P., it is seen that the petitioner and her counsel have not signed the affidavit filed in support of the present Tr.C.M.P.

6.In view of the above facts and non impleading of all the parties in O.S.No.514 of 2015 as parties in the present Tr.C.M.P., the present Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To
The District Munsif, Pollachi.

copy to

1. The Registrar General, High Court, Madras 104.
2. The Registrar Judicial, High Court, Madras 104.

+1 CC to Mr.C. Veeraraghavan, Advocate sr 24414.

Tr.C.M.P. No.729 of 2017
and C.M.P.No.14834 of 2017

PPA(CO)
SP(10/04/2018)

सत्यमेव जयते

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