

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.730 of 2017

and C.M.P.No.14869 of 2017

Allirani

... Petitioner

Vs.

Ramasamy (died)

- 1.Thulasiammal
- 2.Valliammal
- 3.Lakshmi
- 4.Indirani
- 5.Nanthini
- 6.Vimala
- 7.Chinnammal
- 8.Thevathal

Ayyammal (died)

9.Rayathal

S.Ayyasamy (died)

- 10.Neelambigai
- 11.Harishankar
- 12.Saraswathi
- 13.Umadevi
- 14.Muthuselvi

15.Minor Kabileeswar

Represented by next friend

and natural guardian Muthuselvi

... Respondents

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw O.S.No.668 of 2008 pending on the file of the District Munsif Court, Pollachi and transfer the same to the file of the IV Additional District Court, Coimbatore.

For Petitioner : Mr.C.Veeraraghavan

For R1 to R3 : Mr.N.E.A.Dinesh

For R4 to R15 : No appearance

O R D E R

This petition is filed to withdraw O.S.No.668 of 2008 pending on the file of the District Munsif Court, Pollachi and transfer the same to the file of the IV Additional District Court, Coimbatore.

2.The petitioner is eighth defendant, respondents 1 to 6 are the plaintiffs, respondents 7 to 15 are the defendants 1 to 7 and 9 to 12 in O.S.No.668 of 2008 on the file of the District Munsif Court, Pollachi. The respondents 1 to 6 filed the said suit against the petitioner, respondents 7 to 15 and deceased defendants 3 and 5 for partition. The suit property originally belonged to one Marappa Gounder and he is having five daughters and one son. The said Marappa Gounder executed a settlement deed dated 30.04.1980 bearing document No.454/1980 giving life interest to the mother of the petitioner and thereafter, absolutely to the petitioner. The petitioner and her mother are in possession and enjoyment of the property. Suppressing the said settlement deed, the respondents 1 to 6 filed O.S.No.668 of 2008 on the file of the District Munsif Court, Pollachi. In the meanwhile, the mother of the petitioner executed a release deed dated 30.01.2015. The petitioner executed settlement deed in favour of 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, against the petitioner and others. One of the daughters of Marappa Gounder viz., Thevathal/8th respondent herein, also filed suit O.S.No.453 of 2015 on the file of the IV Additional District Court, Coimbatore, for partition against the petitioner and others and the same is pending.

3.The learned counsel for the petitioner submitted that the properties involved in both the suits in O.S.Nos.668 of 2008 and 514 of 2015 are one and the same. In order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts, suit O.S.No.668 of 2008 may be ordered to be withdrawn from the file of the District Munsif Court, Pollachi, transferred to the IV Additional District Court, Coimbatore, to be tried along with O.S.No.514 of 2015 filed by the daughters of the petitioner. The suit O.S.No.668 of 2008 is now posted for evidence.

4.Heard the learned counsel for the petitioner as well as the respondents 1 to 3. Though notice was served on the respondents 4 to 15 and their names are printed in the cause list, there is no representation on behalf of them either in person or through counsel.

5.From the materials available on record, it is seen that there are four suits; two suits for partition and two suits for declaration and all the four suits are pending. The petitioner is seeking transfer of O.S.No.668 of 2008 from the file of the District Munsif Court, Pollachi, to the IV Additional District Court, Coimbatore, to try along with O.S.No.514 of 2015 pending on its file. In suit O.S.No.668 of 2008, already trial commenced and the suit is posted for evidence of the petitioner, who is eighth defendant in that

suit. The petitioner after commencement of trial is seeking joint trial of suit O.S.No.668 of 2008 along with the suit of the year 2015. The petitioner has not given any reason for not filing this transfer petition earlier. Therefore, the present Tr.C.M.P. seeking transfer of O.S.No.668 of 2008 after commencement of trial is not maintainable.

6.In the result, the Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The District Munsif, Pollachi.

2.The IV Additional District Court, Coimbatore

+1cc to Mr.C.Veeraraghavan, Advocate Sr.No.26194

+1cc to Mr.V.Nicholas, Advocate Sr.No.26746

VBA(CO)

sm:25.4.2018

Tr.C.M.P. No.730 of 2017
and C.M.P.No.14869 of 2017

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