

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.933 of 2017
and C.M.P.No.18747 of 2017

Chandirakumar

.. Petitioner

Vs.

1.Kalavathi
2.S.Krishnan
3.Ambika
4.Pugalendhi
5.Mani @ Madu Mani

.. Respondents

PRAYER: Petition filed under Section 24 of the Civil Procedure Code, to withdraw the suit O.S.No.5 of 2017 pending on the file of the District Munsif Court, Tambaram along with connected applications and transfer the same to the file of the XIV Assistant City Civil Court, Chennai to be tried along with O.S.No.4353 of 2017.

For Petitioner : Mr.C.Mohanraj

For R1 : Mr.R.Vasudevan

For RR2 to 5 : No appearance

सत्यमेव जयते
O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw the suit O.S.No.5 of 2017 pending on the file of the District Munsif Court, Tambaram along with connected applications and transfer the same to the file of the XIV Assistant City Civil Court, Chennai to be tried along with O.S.No.4353 of 2017.

2.According to the petitioner, he has filed O.S.No.4353 of 2015 against the first respondent on the file of the XIV Assistant City Civil Court, Chennai. The said suit was decreed exparte on 12.01.2016. The first respondent has filed I.A.No.10338 of 2017 to set aside the exparte decree dated

12.01.2016. The said application is pending. While so, the first respondent filed O.S.No.5 of 2017 before the District Munsif Court at Tambaram for declaration and permanent injunction against the petitioner and respondents 2 to 5. The property and the parties involved in both the suits are one and the same. In order to avoid multiplicity of proceedings and for the convenience of both the parties, the petitioner sought for transfer of O.S.No.5 of 2017 pending on the file of the District Munsif Court, Tambaram to the file of the XIV Assistant City Civil Court, Chennai to be tried along with O.S.No.4353 of 2015.

3.The learned counsel for the first respondent submitted that the suit O.S.No.5 of 2017 is comprehensive suit filed for declaration of title and injunction. While so, O.S.No.4353 of 2015 filed by the petitioner is only for bare injunction. The parties in both the suits are different and not one and the same.

4.Heard the learned counsel for the petitioner as well as the first respondent and perused the materials available on record. Though the respondents 2 to 5 entered appearance through counsel, today there is no representation for them.

5.From the averments in the affidavit filed by the petitioner in support of the present Transfer Civil Miscellaneous Petition, it is seen that O.S.No.4353 of 2015 was decreed exparte on 12.01.2016. I.A.No.10338 of 2017 filed by the first respondent to set aside the exparte decree is pending and exparte decree is not yet set aside. The suit O.S.No.4353 of 2015 is not pending as on date. In view of the same, the Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gsa

To

The District Munsif, Tambaram

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+2cc to Mr.R.Vasudevan, Advocate, S.R.No. 36903

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BM 02/07/2018



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