

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.999 of 2017
and C.M.P.No.20201 of 2017

Manickavally ... Petitioner

vs.

J.V.K.Ajay Pratheeb ... Respondent

Prayer: The petition is filed under Section 24 of C.P.C. praying to withdraw and transfer E.I.O.P.No.79 of 2014 on the file of the IX Assistant City Civil Judge, Chennai and transfer the same to the file of the XVIII Additional City Civil Judge, Chennai for being tried along with O.S.No.4435 of 2015 pending therein (the debt in question in both the proceedings being one and the same).

For Petitioner : Mr.D.Shivakumaran

For Respondent : No appearance

O R D E R

The petitioner is seeking transfer of E.I.O.P.No.79 of 2014 on the file of IX Assistant City Civil Court, Chennai to the file of XVIII Additional City Civil Court, Chennai, to be tried along with O.S.No.4435 of 2015.

2. Heard the learned counsel for the petitioner. Though notice was served on the respondent, there is no representation either in person or through counsel.

3. E.I.O.P.No.79 of 2014 was filed by the defendant in O.S.No.4435 of 2015/respondent herein seeking permission to deposit a sum of Rs.1,42,409/- in full satisfaction of the loan borrowed and for directing the respondent to return the undated promissory notes executed by the petitioner. The petitioner herein has also filed a suit in O.S.No.4435 of 2015 on the file of the XVIII Additional City Civil Judge, Chennai for recovery of Rs.16,81,900/- with interest.

4. In both the suits, the cause of action appears to be the same and the parties are also the same. Hence, the learned counsel for the petitioner prays for trying both the suits together to avoid any conflict of decisions in respect of the same debt in question. The transfer from IX Assistant City

Civil Judge, Chennai to XVIII Additional City Civil Judge, Chennai would not cause any prejudice to the respondent, as the transfer is only intra court transfer and will not cause any serious prejudice. On the other hand it would only avoid any conflict in judgment and save time. Hence, this Court is inclined to transfer E.I.O.P.No.79 of 2014 on the file of the IX Assistant City Civil Court, Chennai to the file of the XVIII Additional City Civil Court, Chennai, to be tried along with O.S.No.4435 of 2015, which is already pending.

5. Accordingly, the Transfer Civil Miscellaneous Petition is allowed by withdrawing E.I.O.P.No.79 of 2014, pending on the file of IX Assistant City Civil Court, Chennai and transferring the same to the file of XVIII Additional City Civil Court, Chennai, to be tried along with O.S.No.4435 of 2015. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

rsi

To

1. The IX Assistant Judge,
City Civil Court, Chennai.

2. The XVIII Additional Judge,
City Civil Court, Chennai

+ 1 cc to M/s. D. Shivakumaran, Advocate Sr.63

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SR(CO)

EU(06/02/2018)