

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2018

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.200 of 2018

Sola Velalar Samugam Trust,
Kitchipalayam, Salem 15,
Rep. By its President V.Vaiyali,
No.52, Bajanai Madam Kandasamy Street,
Kitchipalayam Salem-15.

... Petitioner

Vs.

1.N.P.Krishnan
2.The Commissioner,
Salem City Municipal Corporation,
Salem.

... Respondents

Prayer:-

Petition is filed under Section 24 of C.P.C., to withdraw suits in O.S.Nos.66 of 2003 and 84 of 2010 from the file of the II Additional District Munsif Court, Salem and transfer the same to the file of the Principal Sub Court, Salem, to be tried along with O.S.No.596 of 2010 pending on its file.

For Petitioner : Mr.M.R.Kuyilan
For R1 : Mr.D.Gopinathan
For R2 : No appearance

O R D E R

This petition is filed to withdraw suits in O.S.Nos.66 of 2003 and 84 of 2010 from the file of the II Additional District Munsif Court, Salem and transfer the same to the file of the Principal Sub Court, Salem, to be tried along with O.S.No.596 of 2010 pending on its file.

2.The learned counsel appearing for the petitioner contended that by order dated 25.02.2014, made in Tr.O.P.No.217 of 2013, the learned Principal District Judge, Salem, has transferred the suits in O.S.No.66 of 2003 and O.S.No.84 of 2010 from the file of II Additional District Munsif Court, Salem, to the file of Principal Sub Court, Salem, for joint trial along with suit O.S.No.596 of 2010, pending on its file. This Court, by the

order dated 10.07.2015, made in C.R.P.(PD)No.1571 of 2011 filed by third parties, directed the learned II Additional District Munsif, Salem, to dispose of the suit in O.S.No.66 of 2003 and counter claim in O.S.No.468 of 2008 on merits and in accordance with law, within a period of three months from the date of receipt of the copy of that order.

2(a).The learned II Additional District Munsif, Salem, by the letter D.No.534 of 2016, dated 04.06.2016, sought for a clarification to the Registry of this Court as to whether all the records in O.S.No.66 of 2003 has to be transferred to the Principal Sub Court, Salem, for joint trial as per the order of learned Principal District Judge, Salem, in Tr.O.P.No.217 of 2013 or to decide the suit in II Additional District Munsif Court itself. While so, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to withdraw suits in O.S.Nos.66 of 2003 and 84 of 2010 from the file of the II Additional District Munsif Court, Salem and transfer the same to the file of the Principal Sub Court, Salem, to be tried along with O.S.No.596 of 2010 pending on its file.

3.The learned counsel appearing for the first respondent filed counter affidavit and submitted that Mr.V.Vayali, representing the petitioner Trust as President is not having any locus standi to represent the petitioner's Trust. The first respondent has stated that vide order dated 25.02.2014 made in Tr.O.P.No.217 of 2013 filed by her mother, O.S.No.84 of 2010, pending on the file of II Additional District Munsif Court, Salem, was already transferred to Principal Sub Court, Salem and was renumbered as O.S.No.282 of 2015 and prayed for dismissal of the Transfer Civil Miscellaneous Petition.

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

5.From the materials on record, it is seen that by the order dated 25.02.2014, made in Tr.O.P.No.217 of 2013, the learned Principal District Judge, Salem, has transferred O.S.No.66 of 2003 and O.S.No.84 of 2010 from the file of II Additional District Munsif Court, Salem, to the file of Principal Sub Court, Salem, for joint trial along with O.S.No.596 of 2010. After such an order, this Court by the order dated 10.07.2015 in C.R.P(PD).No.1571 of 2011, directed the learned II Additional District Munsif, Salem, to dispose of O.S.No.66 of 2003 and counter claim in O.S.No.468 of 2008, within a period of three months from the date of receipt of a copy of that order. The earlier order of learned Principal District Judge, Salem, made in Tr.O.P.No.217 of 2013 was not brought to the notice of this

Court when the Civil Revision Petition was dismissed with a direction to the learned II Additional District Munsif, Salem. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition.

6.Considering the above facts, the Transfer Civil Miscellaneous Petition is ordered, directing the learned II Additional District Munsif, Salem to transfer O.S.No.66 of 2003 and counter claim in O.S.No.468 of 2008 to the Principal Sub Court, Salem, as per order passed by the learned Principal District Judge, Salem, in Tr.O.P.No.217 of 2013. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The II Additional District Munsif, Salem.
2. The Principal Subordinate Judge, Salem.
3. The Principal District Judge, Salem.

+1cc to Mr.D.Gopinathan, Advocate, S.R.No.53502
+1cc to Mr.M.R.Kuyilan, Advocate, S.R.No.53452

Tr.C.M.P. No.200 of 2018

KJI (Co)
CS/07/09/18

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