

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.230 of 2018
and C.M.P.No.5881 of 2018

R.Ganesan

... Petitioner

vs.

1. The State of Tamil Nadu
Rep by the Collector of Salem District,
Collectorate, Salem - 636 001.
 2. The Chairman,
Salem Local Planning Authority.
 3. The Member Secretary,
Salem Local Planning Authority,
The Address of Nos.2 and 3 is the same
which is Office of the Joint Director of
Town and Country Planning,
No.5/601-B, Balaji Nagar,
Subramania Nagar, First Gate,
Suramangalam, Salem 636 001.
 4. The Commissioner of Corporation of Salem
Salem 636 001
 5. The Commissioner of Police,
Salem, Linemedu, Salem 636 001.
 6. The Tahsildar,
Salem District, Premises of Salem District
Central Co-operative Bank Ltd.,
Cherry Road, Salem 636 001
- ... Respondents

Prayer: This transfer petition is filed under Section 24 of C.P.C. praying to withdraw and transfer the suit in O.S.No.142 of 2010 pending on the file of the Court of the 3rd Additional District and Sessions Court, Salem to any one of the District Judge Cadre Courts of the City Civil Court, Chennai.

For Petitioner : Mr.M.V.Karunakaran

O R D E R

The plaintiff in O.S.No.142 of 2010 on the file of the District Court, Salem is the petitioner herein seeking transfer of the said suit from the file of the III Additional District and Sessions Court, Salem to any of the City Civil Courts in Chennai.

2. The suit is one filed for recovery of money seeking direction to the defendants jointly and severally to pay the petitioner a sum of Rs.One Crore with 24% interest per annum. The defendants are the State Government Authorities.

3. It is the case of the petitioner that the small scale industry owned by him was demolished by the defendants. Hence, the compensation has been sought for. It is stated in paragraph 4 of the affidavit that there is a hostile attitude against the petitioner by the State of Tamil Nadu and the entire District Administration of the Salem District. Hence, there is a bias against him at all levels in the entire Salem District. It is stated that there were three instances of irregularities and illegalities committed by the III Additional District Judge, Salem before whom the suit was filed. Therefore, the petitioner/plaintiff had filed a complaint on 02.12.2013 before the Registrar General, High Court, Madras. In paragraph 7 and 8, it is stated as follows:

"7. I filed a complaint dated 02.12.2013 before the Registrar General, High Court, Madras against Thiru.T.Elangoven, the then Presiding Officer of the Court of the 3rd Additional District Judge, Salem, which caused angry to the Judges of the Salem District.

8. The Salem District Court is within the territorial jurisdiction of the District Administration consisting the Collector of Salem and the Commissioner of Police Salem."

4. The petitioner is seeking transfer apprehending that the Judges of Salem District are angry with him and that he may not get justice in the District Court, Salem. Giving a complaint against the Judicial Officer is the choice of the petitioner. Having given the complaint, the petitioner is apprehensive of the consequences. Mere presumption and possible apprehension that justice would be denied to a party should not be a ground or basis of transferring. In the absence of any special instances of bias against the Presiding Officer, a transfer petition cannot be allowed on the ground of bias. The suit itself is of the year 2010 and almost 8 years was complete. It is stated that the said suit is ripe for trial and that the III Additional District Judge, Salem has been insisting on the plaintiff to get along with the trial. Mere apprehension in the mind of the litigant cannot be the ground for transfer.

5. Learned counsel appearing for the petitioner reiterated that there is a bias, but there is no material shown that the learned Judge is biased. The complaint against the learned III Additional District Judge, Salem is given in the year 2013 for giving the wrong dates in the fair and decreetal order in I.A.No.269 of 2013. Therefore, the apprehension of the transfer petitioner is not justified for seeking transfer (i.e) after 5 years.

6. As there is no merit in the transfer petition, the Tr.C.M.P is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

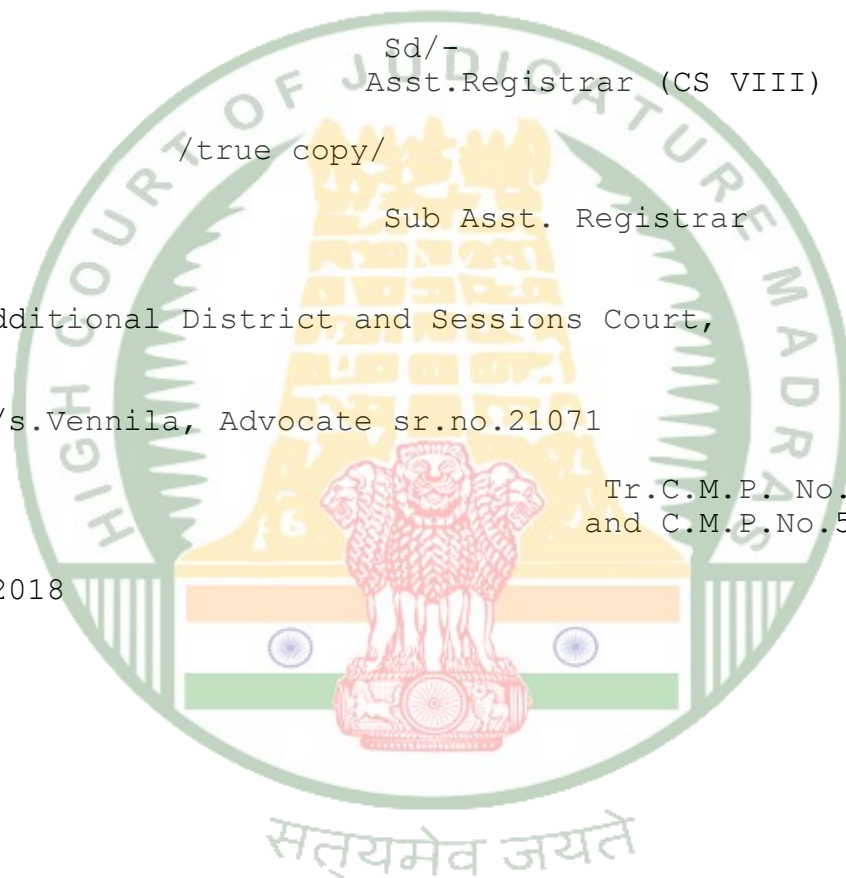
To

The III Additional District and Sessions Court,
Salem.

+2cc to M/s.Vennila, Advocate sr.no.21071

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nr 09/04/2018



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