

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:23.01.2018
CORAM
THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA
Tr.C.M.P.No.24 of 2018
and
C.M.P.No.695 of 2018

N.Shri Vidya

... Petitioner/Plaintiff

versus

1. Kovai Medical Center and Hospital Limited
Post Box No.3209, Avinashi Road,
Coimbatore 641 014.
 2. Dr.Sarada Krishnamurthy, MD (AB), FACB
Haematologist and Medical Oncologist
Reg.No.61603
Kovai Medical Centre and Hospital Ltd
Post Box No.3209, Avinashi Road,
Coimbatore 641 014.
 3. Dr.Vijay Anand.N, MD (GEN MED)
Consultant Physician
Kovai Medical Centre and Hospital
Coimbatore
- ... Respondents/Defendants

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw and transfer P.O.P.93 of 2015 on the file of the District Judge, Coimbatore to the file of the District Judge, Salem.

For Petitioner : Mr.V.V.Sairam

सत्यमेव जयते
O R D E R

The petitioner has filed the above Transfer Civil Miscellaneous Petition seeking transfer of P.O.P.No.93 of 2015 on the file of the District Court, Coimbatore to the file of the District Court, Salem.

2. The transfer petitioner has filed the suit for damages directing the defendants to pay a sum of Rs.30 lakhs. It is stated in the affidavit that she has lost her eyesight in a medical treatment and therefore, she was constrained to file a suit for damages claiming the compensation against the hospital. As the cause of action arose in Coimbatore, the suit has been filed in Coimbatore invoking Order 33 Rule 5 C.P.C. It is stated in paragraph 6 of the affidavit that since she has lost her vision, she has to be accompanied by her father for each of the hearing and it would be difficult

for her to go to Coimbatore for each hearing. Hence, she seeks for transfer.

3. Section 24 of C.P.C grants power to the High Court to transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same. However, Section 24 (3) (b) C.P.C states that the word "proceeding" includes a proceeding for the execution of a decree or order. Unfortunately, in the case on hand, the suit itself is not taken on file and this is an application for permitting the plaintiff to sue as an indigent person, which is yet to be ordered. In such circumstances, when the suit is not yet taken on file and the pauper proceeding is not a proceeding as defined under Section 24(3) (b) of C.P.C, the transfer petition cannot be entertained. Accordingly, the transfer civil miscellaneous petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(ccc)

//True Copy//

Sub Assistant Registrar

srn
To

1. The District Judge, Coimbatore
2. The District Judge, Salem

SAI (co)
SM:15.2.2018

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