

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.436 of 2018
and C.M.P.No.11169 of 2018

V.Sundaram

... Petitioner

Vs.

V.Thirulogachandar

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.114 of 2017 pending on the file of Sub Court, Ponneri and transfer the same to Sub Court, Tiruvallur or Poonamallee.

For Petitioner : Mr.V.Bhiman

O R D E R

This petition is filed to withdraw the suit in O.S.No.114 of 2017 pending on the file of Sub Court, Ponneri and transfer the same to Sub Court, Tiruvallur or Poonamallee.

2.The petitioner is defendant and respondent is plaintiff in O.S.No.114 of 2017 pending on the file of Sub Court, Ponneri. The respondent filed the said suit for permanent injunction. Along with the suit, the respondent filed I.A.No.336 of 2017 for interim injunction pending suit. Earlier, an injunction was granted and after contest, the same was made absolute. The petitioner filed C.M.A.No.20 of 2017 before the Additional District Court No.IV, Ponneri and the said C.M.A. was dismissed.

3.According to the petitioner, he is making arrangements to file Civil Revision Petition challenging the judgment passed in C.M.A.No.20 of 2017. The petitioner has come out with the present Transfer Petition on the ground that the learned Judge decided the suit itself by passing orders in interim application in I.A.No.336 of 2017 and the learned Trial Judge will not deviate from the earlier order passed in the interim application.

4.Heard the learned counsel for the petitioner and perused the materials available on record.

5.From the averments made in the affidavit filed in support of the Transfer Petition, it is seen that the trial has been commenced and some of the documents were marked subject to objection. As per the orders of this Court, some of the documents were sent for verification of the signature. At this stage, the petitioner has come out with the present Transfer Petition. The reason given by the petitioner for transfer is not a valid reason. Pending suit or appeal, the Court can consider the application for interim orders and decide the said application. Deciding the application for interim orders pending suit will not prohibit the learned Judge in deciding the suit on merits.

6.The apprehension of the petitioner is that the learned Judge will deliver the judgment in view of the order passed in I.A. for interim injunction. In view of the above, the learned Judge is directed to decide the suit on merits based on the pleadings and evidence let in by the parties without being influenced by the reason given in the order passed in I.A.No.336 of 2017 and judgment in C.M.A.No.20 of 2017.

7.With the above direction, the Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Subordinate Judge, Ponneri.

+1cc to Mr.V.Bhiman, Advocate, S.R.No.44746

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GSP(11/07/2018)

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