

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.09.2018

PRONOUNCED ON : 18.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.570 of 2018

and

CMP.No.13868 of 2018

Poonam

..Petitioner

Vs.

Pon Vidyashram Group of CBSE Schools
Represented by its Chairman,
Having its office at
Sapthagiri Nagar,
Opp. To A.R.G.Garden,
Behind Saravana Bhavan,
Arcto Road, Valasaravakkam,
Chennai - 600 087

..Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the suit bearing O.S.No.226 of 2018 on the file of Subordinate Judge at Poonamallee and transfer the same to the file of the XII Assistant City Civil Court at Chennai to be tried along with the suit bearing O.S.No.5229 of 2017 pending on the file of the XII Assistant City Civil Court at Chennai.

For Petitioner : Dr.C.Ravichandran

For Respondent : No appearance

Set exparte vide order

dated 12.09.2018

ORDER

The petitioner has laid O.S.No.5229 of 2017 on the file of the XII Assistant Judge, City Civil Court, Chennai against the respondent for recovery of money with reference to the transactions between them in respect of the supply of the note books to the respondent's schools.

2.While so, according to the petitioner, the respondent has thereafter chosen to lay a civil suit against the petitioner in O.S.No.226 of 2018 on the file of the Sub-Court, Poonamallee for recovery of money qua the deficiency in the

supply of the notebooks by the petitioner to the respondent's school.

3. Now, according to the petitioner, the respondent has laid the suit at Poonamallee Court only to harass her and according to her, the substantial cause of action for the abovesaid suit arose only at Chennai and furthermore, the respondent, without seeking any counter claim in the suit laid by the petitioner pending on the file of the City Civil Court, Chennai, has chosen to lay the suit at Poonamallee Court to cause loss and hardship to the petitioner and accordingly, putting forth that the cause of action for both the suits arise out of the same transaction between the parties and as the common evidence could be advanced in both the suits with reference to the respective claims made by the parties accordingly, seeking the transfer of the abovesaid proceeding from Poonamallee Court to Chennai Court, the present transfer petition has been laid by the petitioner.

4. The respondent, though, had been served, has not chosen to contest the transfer request of the petitioner. Accordingly, the respondent having remained absent, on being called, been set exparte.

5. As regards the transaction between the parties qua the supply of notebooks, it is found that two proceedings are pending between the parties in different forums. Now, according to the petitioner, the cause of action for both the suits is arising out of the same transaction involved between the parties and further, according to her, for the adjudication of the issues involved between the parties as regards the same, common evidence would be required to be adduced in both the matters and accordingly, sought for the joint trial of the suit proceedings by one and the same Court. Further, it is stated the determination of the two proceedings in different forums may lead to conflict of decisions. The abovesaid reasons projected by the petitioner for seeking the transfer are not contested by the respondent and as abovestated, the respondent has chosen to remain exparte.

6. Considering the issues involved between the parties in respect of the supply of notebooks and with reference to the same, the two proceedings are pending in two different Courts, as rightly put forth, in the interest of justice, the consolidation of the two proceedings and the determination of the same by one and the same Court would be beneficial to both the parties as well as would advance the cause of justice and by way of the same, the parties would be required to adduce common evidence in both the proceedings. Thus, it is found that the petitioner made out a sufficient cause for effecting the transfer prayed for. Accordingly, it is seen that the respondent has not chosen to contest the transfer request of the petitioner.

7.For the reasons aforesated, O.S.No.226 of 2018 is withdrawn from the file of the Sub-Court, Poonamallee and transferred to the file of the XII Assistant Judge, City Civil Court, Chennai for joint trial along with O.S.No.5229 of 2017 as per law.

Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP.No.13868 of 2018 is closed.
sms

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

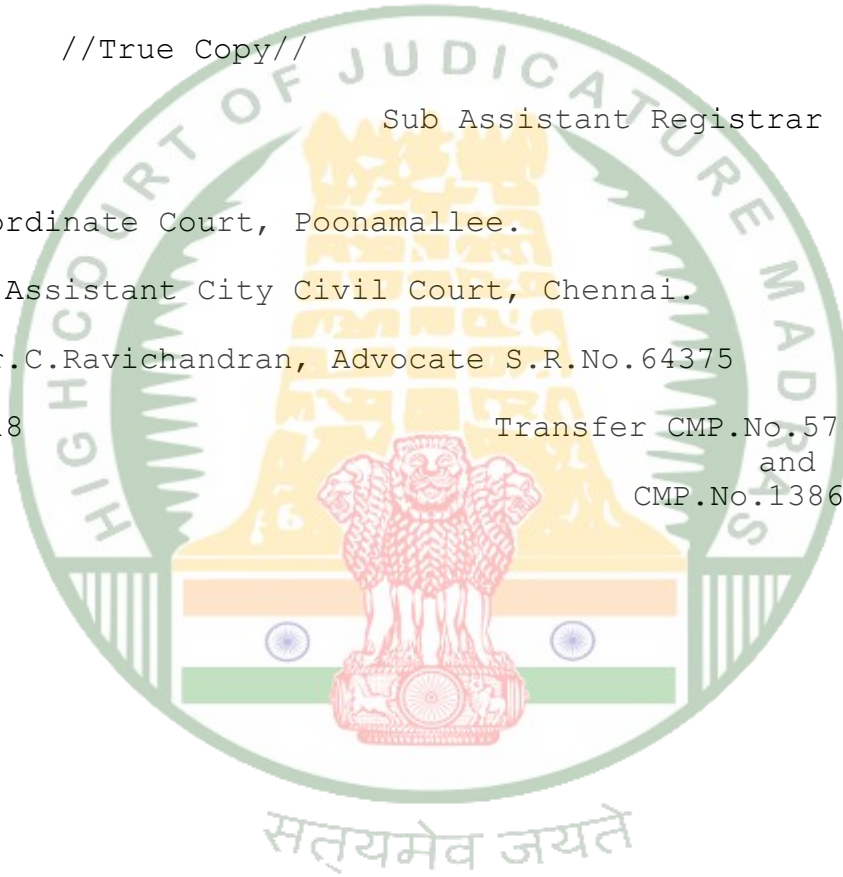
1.The Subordinate Court, Poonamallee.

2.The XII Assistant City Civil Court, Chennai.

+1cc to Dr.C.Ravichandran, Advocate S.R.No.64375

KR/30/10/18

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