

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.90 of 2018
and C.M.P.No.2585 of 2018

V.Narmatha

.. Petitioner

Vs.

M/s. Royal Promoters
Rep by its Proprietor
K.Mohamed Ali Jinnah
No.64/22, Mahalakshmi Nagar,
1st Main Road, Adambakkam,
Chennai 600 088.

.. Respondent

PRAYER: This petition has been filed under Section 24 of C.P.C to withdraw the suit in O.S.No.452 of 2015 pending on the file of the District Munsif Court, Alandur and transfer the same to the file of the District Court, Chengalpattu to be tried along with O.S.No.243 of 2017.

For Petitioner : M/s.M.Sneha

For Respondent : M/s.R.Amizhdhu

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the suit in O.S.No.452 of 2015 pending on the file of the District Munsif Court, Alandur and transfer the same to the file of the District Court, Chengalpattu to be tried along with O.S.No.243 of 2017.

2.According to the petitioner, she has filed O.S.No.452 of 2015 against the respondent for permanent injunction restraining the respondent from interfering with her peaceful possession and enjoyment of the suit property. In the said suit, she also filed I.A for interim injunction. No interim injunction was granted. Taking advantage of the same and intervening summer vacation, the respondent encroached the suit property. In the circumstances, the petitioner has filed O.S.No.243 of 2017 for declaration and possession on the file of the District Court, Chengalpattu.

3. According to the petitioner, the parties, suit property and evidence to be let in in both the suits are one and the same. In view of the same, she has come out with the present Transfer Civil Miscellaneous Petition.

4. Without admitting the averments made in the Transfer Civil Miscellaneous Petition on merits, the learned counsel for the respondent contended that in view of the subsequent suit O.S.No.243 of 2017 filed for declaration and possession, the earlier suit O.S.No.452 of 2015 has become infructuous and as already evidence was let in in O.S.No.452 of 2015, there is no reason to transfer the said suit to the file of the District Court, Chengalpattu.

5. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

6. The petitioner has filed the copies of the plaint in O.S.Nos.452 of 2015 and 243 of 2017. From the plaint, it is seen that the parties and property involved in both the cases are one and the same. The petitioner has stated that respondent has encroached major portion of the suit property. In view of the same, both the suits must be heard together in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts.

7. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The suit in O.S.No.452 of 2015 is ordered to be withdrawn from the file of the District Munsif Court, Alandur and transferred to the file of the District Court, Chengalpattu to be tried along with O.S.No.243 of 2017 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned District Munsif, Alandur is directed to transmit all the records pertaining to O.S.No.452 of 2015 to the file of the District Court, Chengalpattu within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

gsa

To

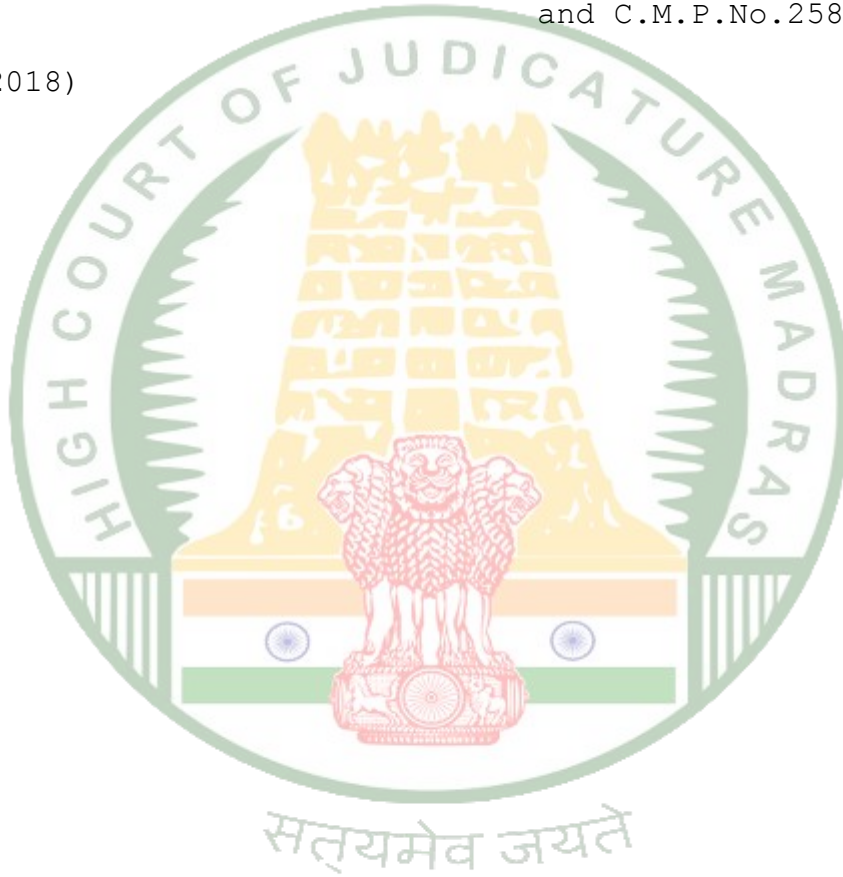
1.The District Judge, Chengalpattu.

2.The District Munsif, Alandur.

+ 1 cc to MR. J. Ravindran, Advocate Wr.38524

Tr.C.M.P.No.90 of 2018
and C.M.P.No.2585 of 2018

MP (CO)
EU(10/07/2018)



WEB COPY