

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.09.2018

PRONOUNCED ON : 03.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.636 of 2018

and

CMP.No.15662 of 2018

His Holiness Head of Sri Kasi Mutt
Sri-La-Sri Kasivasi Muthukumarasamy
Thambiran, Thirupanandal,
Represented by Power of Attorney
S.Lakshmanan ... Petitioner

Vs.

1.B.Ramamurthy
2.M/s.Aruthra Hotels (P) Ltd,
No.6, First Floor,
Norton 3rd Street,
Near St.John School,
Mandaveli, Chennai - 28. ... Respondents

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the suit in O.S.No.57 of 2017 pending on the file of the Sub-Court, Chidambaram and transfer the same to the Principal Sub Court, Kumbakonam.

For Petitioner : Mr.K.Doraisamy
Senior Counsel
for M/s.Muthumani Doraisamy

For Respondents : Mr.A.Muthukumar

ORDER

The petitioner has laid the suit in O.S.No.57 of 2017 against the respondents for delivery of the suit property without any obstruction and also for recovery of a sum of Rs.3,00,000/-as rent from the respondents by way of damages for use and occupation of the suit property with the month ending February 2017 and the same is pending on the file of the Sub-Court, Chidambaram.

2.Now, according to the petitioner, the abovesaid suit has been laid by him through his power of attorney holder and it is stated that the power of attorney holder is aged 84 years and suffering from spondylitis and other old age ailments and therefore, expressing difficulty and hardship in travelling to Sub-Court, Chidambaram and accordingly, it is stated that as the petitioner Mutt in Thirupanandal is nearer to Kumbakonam, accordingly, prayed for the transfer of the abovesaid suit proceeding to Principal Sub-Court, Kumbakonam and it is seen that it is only the power of attorney holder, who has filed the transfer petition on behalf of the petitioner.

3.The respondents contended that the convenience of Power of attorney holder for transferring the suit from one Court to another Court is not acceptable and it is further stated that if this type of request of the transfer is entertained, it may open the floodgate for similar such transfer petitions in the Court and therefore, contended that ill-health of the power of attorney holder may not be a sufficient cause for seeking the transfer as prayed for and accordingly, contended that the transfer request has been made only with a view to cause hardship and embarrassment to the respondents and the respondents would find it difficult to attend the proceeding at Kumbakonam Court and accordingly, prayed for the dismissal of the transfer petition.

4.The only reason projected by the petitioner for seeking the transfer is that its power of attorney holder is unable to travel to Chidambaram Court on account of his old age ailments and accordingly, the transfer should be effected as prayed for. As rightly put forth by the respondents' counsel, ill-health of a party may not be a sufficient ground solely for accepting the transfer request.

5.Even assuming for the sake of arguments that the power of attorney holder of the petitioner is suffering from certain ailments as put forth, if the abovesaid cause is a genuine cause, nothing prevented the petitioner from moving the concerned Court to examine the power of attorney holder through commission or otherwise in the manner known to law and in such view of the matter, I am unable to accept the request of the transfer put forth on the ground of ill health. The petitioner having laid the suit against the respondents in the jurisdictional Court at Chidambaram, thereafter, cannot be allowed to seek the transfer of the same to another Court on the footing that its power of attorney holder is suffering from health problems and unable to attend the concerned jurisdictional Court due to distance factor. As rightly argued by the respondents, if this type of request is entertained on

the asking for, it would definitely open the floodgate for similar such requests by the other litigants and therefore, I am unable to countenance the transfer request of the petitioner. As abovenoted, if the health problem of the power of attorney holder does not permit him to travel the long distance as put forth and if the same is a genuine cause, the remedy is available to the petitioner with reference to the same from the concerned jurisdictional Court and in such view of the matter, the transfer request of the petitioner for the ground mentioned in the petition as such cannot be readily countenanced.

In the light of the above factors, the transfer request of the petitioner is found to be devoid of merits and resultantly, the Transfer Civil Miscellaneous petition is dismissed. Consequently, connected CMP.No.15662 of 2018 is also dismissed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

sms
To

The Sub-Court,
Chidambaram.

+lcc to M/S.Muthumani Doraisamy, Advocate Sr.68106
+lcc to Mr.A.Muthukumar, Advocate Sr.68002

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srg 30/10/2018

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