

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.10.2018

PRONOUNCED ON : 09.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.Nos.648, 653 and 660 of 2018

N.Muthurajan	...	Petitioner in Tr.CMP.No.648, 653 & 660 of 2018
	Vs.	
R.Muthu Jayalakshmi	...	Respondent in Tr.CMP.No.648/2018
R.Vaishnavi	...	Respondent in Tr.CMP.No.653/2018
Abirami	...	Respondent in Tr.CMP.No.660 /2018

Prayer in Tr.CMP.No.648 of 2018 :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the proceedings in O.S.No.186 of 2018, on the file of the District Munsif Court, Tiruppur and transfer the same to II Additional District Judge, Tiruppur in O.S.No.274 of 2016 or any other Court.

Prayer in Tr.CMP.No.653 of 2018 :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the proceedings in O.S.No.198 of 2017 on the file of the V Additional Sub Judge and transfer the same to II Additional District Judge, Tiruppur in O.S.No.274 of 2016 or any other Court.

Prayer in Tr.CMP.No.660 of 2018 :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the proceedings in O.S.No.200 of 2017 on the file of the V Additional Sub Judge, tiruppur and transfer the same to conduct a joint trial to II Additional District Judge, Tiruppur in O.S.No.274 of 2016 or any other Court.

For Petitioner : Mr.S.Sithirai Anandam
in all petitions

For Respondent : Mr.S.Arjun
in all petitions

COMMON ORDER

The petitioner N.Muthurajan is the brother of the respondent R.Muthu Jayalakshmi in Tr.CMP.No.648 of 2018.

2.The Respondent R.Vaishnavi in Tr.CMP.No.653 of 2018 is the daughter of R.Muthu Jayalakshmi. The respondent Abirami in Tr.CMP.No.660 of 2018 is the another daughter of R.Muthu Jayalakshmi.

3.Materials placed on record go to show that the another sister of the Petitioner, R.Annapoorani has laid the suit in O.S.No.274 of 2016 pending on the file of the II Additional District and Sessions Court, Tiruppur for partition against the petitioner N.Muthurajan, the respondent R.Muthu Jayalakshmi and the respondent R.Abirami. Based on the materials placed, it is seen that the respondent R.Muthu Jayalakshmi. based on the Will dated 04.04.2016 purported to have been executed by

the mother has laid the suit in O.S.No.186 of 2018 against the petitioner Muthurajan for the relief of permanent injunction in respect of the subject matter involved in O.S.No.274 of 2016 and the same is pending on the file of the District Munsif Court, Tirupur.

4.Further, based on the settlement deeds said to have been executed by Govindammal and the respondent R.Muthu Jayalakshmi, the respondent R.Vaishnavi has laid a suit in O.S.No.198 of 2017 against the petitioner N.Muthurajan for the relief of permanent injunction in respect of the subject matter involved in O.S.No.274 of 2016 and the same is pending on the file of the V Additional Sub Court, Thiruppur. Similarly, based on the abovesaid settlement deeds, the respondent Abirami has laid the suit in O.S.No.200 of 2017 for the relief of permanent injunction against the petitioner and the same is pending on the file of the V Additional Sub Court, Thiruppur.

5.Thus, it is found that four civil suits are pending between more or less the same parties and it is seen that the respondent R.Muthu Jayalakshmi and her daughters have been claiming the reliefs in respect of the same subject matter involved in O.S.No.274 of 2016 based on different causes of action. However, considering the issues involved between the parties as regards the subject matter covered in all the abovesaid four suits, being one and the same and accordingly, the

transfer CMPs abovestated have come to be laid by the petitioner Muthurajan for transferring O.S.Nos.186 of 2018, 198 of 2017 and 200 of 2017 abovestated to the file of the II Additional District and Sessions Court, Thiruppur for joint trial along with O.S.No.274 of 2016.

6.The respondents have contested the requests of the transfer put forth by the petitioner contending that the parties, in all the suits, are not the same and furthermore, the subject matter is also not similar and the parties have based their respective suits on different causes of action and hence, there is no need for effecting the transfers prayed for and it is also further contended that only with a view to delay the proceedings before the various Courts, the present transfer petitions have come to be laid by the petitioner and hence, prayed for the dismissal of the transfer petitions.

7.In this connection, the respondents also placed reliance upon the decision reported in **(2008) 3 Supreme Court Cases 659 (Kulwinder Kaur Alias Kulwinder Gurcharan Singh Vs. Kandi Friends Education Trust and others).**

8.On a perusal of the materials placed on record, it is seen that a comprehensive suit for partition is pending between the parties in respect of the subject matter in O.S.No.274 of 2016 on the file of the Second

Additional District and Sessions Court, Thiruppur. Thereafter, it is found that the respondents have laid different civil actions against the petitioner as abovestated based on the Will, settlement deeds etc., above referred to and accordingly, have claimed the relief of permanent injunction against the petitioner and it is also seen that the petitioner is disputing the alleged documents of title projected by the respondents for claiming the relief prayed for in the abovesaid suits laid by them. Inasmuch as the issues involved between the parties as regards the subject matter involved in the four suits are found to be more or less similar and also arising mainly between the petitioner and the respondents in the various civil actions and in such view of the matter, when the parties would be required to put forth the same evidence as regards the subject matter in all the four civil actions, in such view of the matter, if all the suits are jointly tried and determined by one and the same Court, as rightly put forth, the same would avoid conflict of decisions and furthermore, by way of the joint trial of the four civil suits by one and the same Court, the parties also would be required to adduce common evidence in all the matters and in such view of the position, it is seen that the consolidation of all the four suits and the joint trial and the determination of the four civil suits by one and the same Court would advance the cause of justice and by way of the same joint trial as prayed for, no serious prejudice is found to be caused to the respondents as such. Though it is contended by the respondents' counsel that only with a view to delay the proceedings,

the petitioner has come forward with the transfer petitions, considering the date of the institution of the various suits by the respondents in various civil Courts, in such view of the matter, it is seen that it cannot be straight away concluded that the petitioner has laid the transfer petitions only to delay the proceedings of the Courts below.

7. For the reasons aforesaid, O.S.No.186 of 2018 pending on the file of the District Munsif Court, Tiruppur, O.S.No.198 of 2017 pending on the file of the V Additional Sub Court, Tiruppur and O.S.No.200 of 2017 pending on the file of the V Additional Sub Court, Tiruppur, are withdrawn and transferred to the file of the II Additional District and Session Court, Tiruppur for joint trial along with O.S.No.274 of 2016 as per law.

Accordingly, the Transfer Civil Miscellaneous Petitions are allowed. Consequently, connected miscellaneous petitions, if any, are closed.

Index : Yes / No
Internet : Yes / No
sms

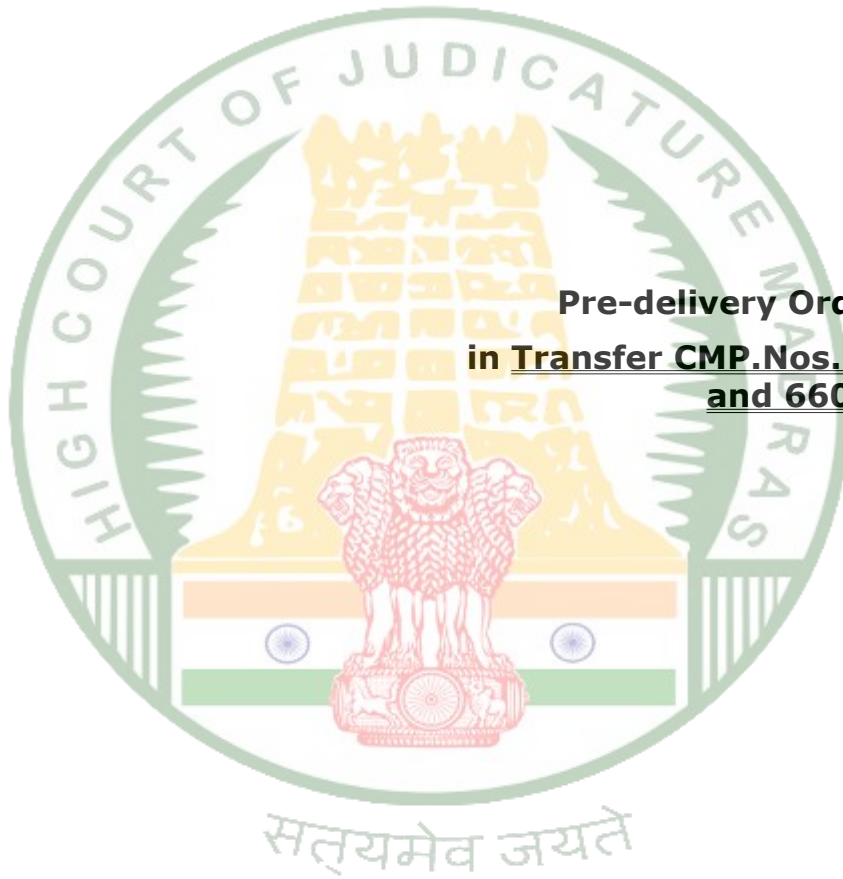
09.10.2018

To

1. The District Munsif Court, Tiruppur.
2. The II Additional District & Sessions Court, Tiruppur.
3. The V Additional Sub Court, Tiruppur.

T.RAVINDRAN, J.

sms



**Pre-delivery Order made
in Transfer CMP.Nos.648, 653
and 660 of 2018**

09.10.2018

WEB COPY