

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.10.2018

PRONOUNCED ON : 22.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.655 of 2018

and

CMP.No.16184 of 2018

Jabhar Ali ... Petitioner

Vs.

1.Sadique Basha

2.Pairojabegam

3.Ramijaan Begam

4.Regina @ Reginabegam

5.The Sub-Registrar

Office of the Sub-Registrar

Vallikandapuram,

Veppanthattai Taluk,

Perambalur District. ... Respondents

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw and transfer the suit in O.S.No.152 of 2017 on the file of the District Munsif cum Judicial Magistrate /Additional Mahila Court, Perambalur to be tried along with O.S.No.01 of 2017 on the file of the Principal Sub-Court, Tittagudi.

For Petitioner : Mr.G.Surya Narayanan

For Respondent No.1 : Mr.K.Sanjay

For Respondent : No appearance

Nos.2 to 5 set exparte vide order

dated 11.10.2018

ORDER

The transfer petition has been laid seeking transfer of O.S.No.152 of 2017 pending on the file of the District Munsif cum Judicial Magistrate/Additional Mahila Court, Perambalur to the file of the Principal Sub-Court, Tittagudi for joint trial along with O.S.No.1 of 2017.

2.According to the petitioner, he has laid a partition suit in O.S.No.1 of 2017 against the

respondents and the same is pending on the file of the Sub-Court, Tittagudi on transfer from the Sub-Court, Virudhachalam.

3.It is stated that the petitioner seeks share in the property involved in the abovesaid suit through his father GulamTasthaheer. It is further stated that the first respondent has laid the suit for partition in O.S.No.152 of 2017 against the petitioner and others and the first respondent has also sought for partition in the property involved in the abovesaid suit through GulamTasthaheer.

4.Accordingly, it is stated by the petitioner that inasmuch as in both the suits, the parties thereto are claiming shares in the properties belonging to GulamTasthaheer, in such circumstances, according to the petitioner, in the interest of justice, both the suits should be jointly tried by one and the same Court and by way of the same, conflict of decisions could be avoided and therefore, prayed for the transfer.

5.The first respondent resisted the transfer request of the petitioner contending that he has laid the suit in respect of the property belonging to GulamTasthaheer against the petitioner and others and inasmuch as the same is not connected with the property involved in O.S.No.1 of 2017, according to him, it is not necessary to accept the transfer prayed for and according to him, only with a view to delay the proceeding, the present transfer petition has been laid and hence, liable to be dismissed.

6.Admittedly, both the parties viz., the petitioner as well as the first respondent have independently laid partition suit in respect of the property belonging to GulamTasthaheer and are claiming partition to the property involved in the said suits through GulamTasthaheer. Accordingly, it is seen that inasmuch as in both the suits, the parties thereto are claiming reliefs through GulamTasthaheer and accordingly, as rightly putforth, in the light of the issues involved in both the suits almost being similar and related to one another, in the interest of justice, it is found that the joint trial of the suits together and the determination of the said suits by one and the same Court would be beneficial to both the parties and also would avoid conflict of decisions. Accordingly, it is seen that the petition for transfer laid by the petitioner seems acceptable.

7.The suit laid by the petitioner is pending on the file of the Sub-Court, Tittagudi, where as the suit laid by the first respondent is pending on the file of the District Munsif cum Judicial Magistrate/Additional Mahila Court, Perambalur. Considering the subject matter involved in both the suits and the trace of title /share to the suit property involved in both the suits by the respective parties through GulamTasthaheer and also the cause of justice requires the joint trial of both the suits by one and the same Court, in all, the transfer request of the petitioner merits acceptance.

8.Resultantly, O.S.No.152 of 2017 is withdrawn from the file of the District Munsif cum Judicial Magistrate/Additional Mahila Court, Perambalur and transferred to the file of the Sub-Court, Tittagudi for joint trial along with O.S.No.1 of 2017 as per law.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP.No.16184 of 2018 is closed.

22.10.2018

Index : Yes / No

Internet : Yes / No

sms

To

- 1.The District Munsif cum Judicial Magistrate
/Additional Mahila Court, Perambalur.
2. The Principal Sub-Court, Tittagudi.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No.655 of 2018
and
CMP.No.16184 of 2018

22.10.2018