

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.09.2018

PRONOUNCED ON : 25.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 686 of 2018

and

CMP.No.16979 of 2018

1.N.Kannagi

2.S.Rajanandhini

... Petitioners

Vs.

1.S.Chandrakumar

2.N.Arjun

...

Respondents

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the suit in O.S.No.26 of 2018 pending on the file of the Hon'ble District Judge NO.II, Kancheepuram and transfer the same to the file of any other District Judge within the same District.

For Petitioners : Mr.T.G.Ravichandran

ORDER

The transfer petition has been laid by the petitioners seeking transfer of O.S.No.26 of 2018 laid against them by the first respondent pending on the file of the District Court No.II, Kancheepuram to any other District Court within the jurisdiction of Kancheepuram District.

2.Materials placed on record go to show that the suit in O.S.No.26 of 2018 has been laid by the first respondent against the petitioners and one N.Arjun, the second respondent herein seeking the relief of declaration that the document executed by the first respondent in favour of the second respondent dated 19.01.2008 registered as document No.706/2018 on the file of the Kundrathur, Sub-Registry as null and avoid and liable to be set aside and for recovery of money and along with the suit, it is found that he has also laid I.A.No.102 of 2018 against the

second petitioner herein for the grant of ad interim injunction restraining her from executing the sale deed in favour of the third party in any manner till the disposal of the petition as well as the suit.

3. Putting forth the case that the petitioners have filed the written statement in the suit laid by the first respondent as well as the counter in the abovesaid interlocutory application, the transfer CMP has come to be laid by the petitioners on the footing that the Court is insisting upon the petitioners to proceed with injunction application without endeavouring to take up the suit for trial. Inasmuch as they had already filed the written statement disputing the reliefs sought for by the first respondent and in such view matter, apprehending that the judge concerned has developed prejudice against them and proceeding with interlocutory application, accordingly, has come forward with the present transfer petition seeking transfer of the suit.

4. However, I am unable to accept the transfer request of the petitioners. No doubt, the petitioners have filed the written statement in the suit. Equally, it is also noted that the petitioners have also filed their counter in the interlocutory application. The suit laid by the first respondent is of the year 2018. In such view of the matter, the petitioners cannot be allowed to contend that inasmuch as they had filed the written statement in the suit, the Court is not entitled to proceed with the interlocutory application and only should proceed with the main suit and therefore, their grievance that the endeavour of the Court below in proceeding with the interlocutory application has caused apprehension in their mind that the Court has developed prejudice against their interest, as such, cannot be accepted. When the plaint and interlocutory application have been filed by the first respondent and the first respondent has sought for the interim relief against the petitioners pending disposal of the suit, it is seen that the Court below is justified in insisting the parties to give a quietus to the interlocutory application and in such view of the matter, merely because the Court had refused to accept the request of the petitioner in taking up the suit for trial filed in the year 2018, that by itself would not be a justification for holding that the Court below has become prejudice against the interest of the petitioners as sought to be projected. It is thus found that the petitioners, without any basis or any rhyme and reason, have come forward with the transfer request with an endeavour to ensure that the proceedings are not conducted before the Court below laid against them by the first respondent one way or the other. If according to the petitioners, as put forth, the interlocutory application preferred by the first respondent is not legally maintainable in a suit for recovery of money, nothing prevented them from putting forth their case with

reference to the same before the Court below and invite the order of the Court with reference to their abovesaid contention. In such view of the matter, without proceeding on that line the transfer petition laid by the petitioners that they are apprehending that the Court below has become prejudice against their interest merely on the footing that the Court below is insisting to dispose of the interlocutory application at the first instance, in my considered opinion, does not merit any acceptance and justification and accordingly, the transfer CMP is found to be devoid of merits and resultantly, is dismissed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

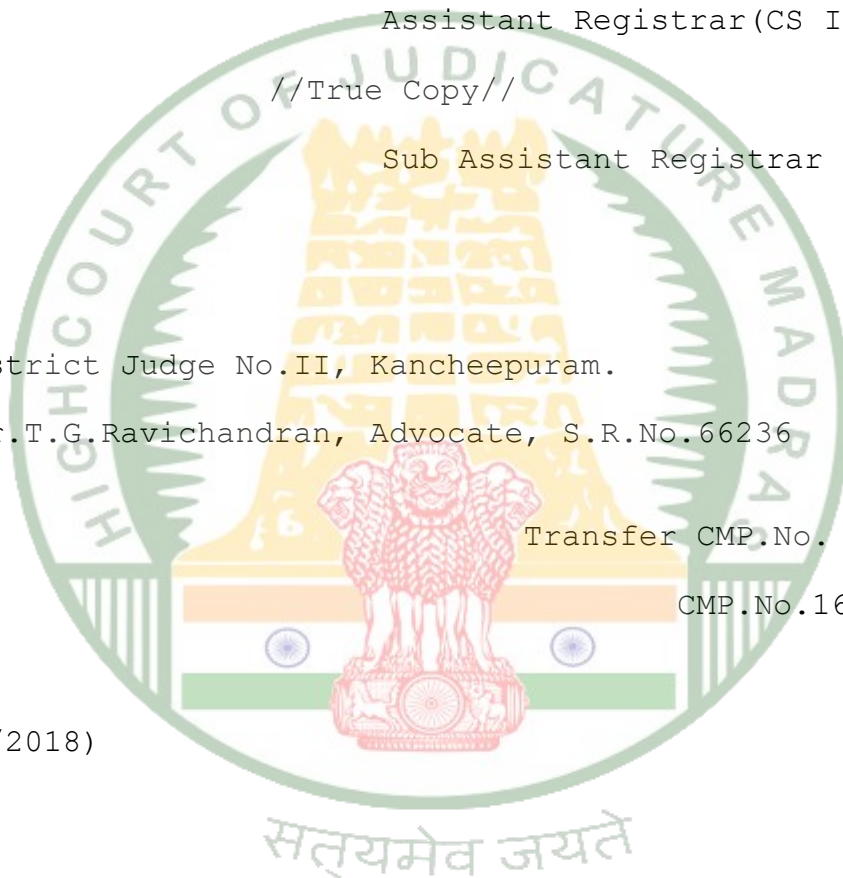
To

1. The District Judge No.II, Kancheepuram.

+1cc to Mr.T.G.Ravichandran, Advocate, S.R.No.66236

Transfer CMP.No. 686 of 2018
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AK(CO)
GSP(15/10/2018)



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