

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 10.09.2018
PRONOUNCED ON:19.09.2018

CORAM:
THE HON'BLE MR.JUSTICE T.RAVINDRAN
Tr.C.M.P.Nos.754 and 755 of 2013
and
M.P.No. 1 of 2013

1.Kalyanasundari @ Viji

2.C.Gnanasekaran ...Petitioners in both Tr.C.M.Ps

Vs.

1.Kasthooribai (Died)

2.Jayachandran

3.Jothibai

4.Geethabai

5.Banumathi

6.Harikrishnakumar

7.Harimohanaa Mathi Oli @ Vijayakumari

8.Gangadevi

9.Anjalidevi

10.District Registrar,
Government of Tamil Nadu,
Thirupadripuliyur. सत्यमेव जयते

11.The Joint Sub Registrar No.2
Government of Tamil Nadu,
Thirupadripuliyur,
Cuddalore - 2

[First petitioner and RR2 to R9 are LRs
of the deceased first respondent
viz., Kasthooribai vide Court order
dated and memo filed dated
04.06.2018 made in
Tr.C.M.P.No.754 & 755 of 2013]

...Respondents in both Tr.C.M.Ps

Common Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.9 of 2013 from the file of the District Munsif Court, Panruti and transfer the same to the file of Principal District Court, Cuddalore to try along with the suit O.S.No.139 of 2013 on the file of the Principal District Court, Cuddalore.

Both TR CMPs

For Petitioners : Mr.T.S.Baskaran

For RR2 : Ms.R.Gowri

For RR3, R4 & R8 : No representation
No appearance

For R5, R6, R7, & R9 : No Appearance

For R10 and R11 :Mrs.A.Madhumathi, AGP (CS)

C O M M O N O R D E R

The first petitioner and the respondents 1 to 9 are closely related. Accordingly, it is found that seeking partition, the first petitioner along with her mother, the first respondent herein had laid a suit in O.S.No.30 of 2010 against the respondents 2 to 9 herein and the same is pending on the file of the Additional Subordinate Court, Puducherry.

2. It is stated that during the pendency of the abovesaid suit, the Will dated 25.08.1983 had come to be posthumously registered by the District Registrar, Cuddalore and according to the first petitioner, she has disputed the truth and genuineness of the abovesaid Will in the suit referred to above. However, it is stated that the mother namely the first respondent had admitted the abovesaid Will before the District Registrar and thereby not willing to prosecute the suit in O.S.No.30 of 2010 along with the first petitioner. It is also stated that the mother had executed a settlement deed in favour of the first petitioner dated 26.12.2012. Accordingly, it is seen that certain applications had come to be preferred in O.S.No.30 of 2010 for withdrawal and transposition and the same are pending. Meanwhile, according to the first petitioner, she had filed a fresh suit for partition in O.S.No.139 of 2013 in respect of the properties based on the deed of settlement above referred to and the same is pending on the file of Principal District Court, Cuddalore. It is also further stated that the second respondent herein had laid a suit for the relief of permanent injunction in respect of the certain items of

properties involved in the abovesaid suits against the first petitioner, the first respondent as well as the Sub Registrar Nellikuppam and the Joint Registrar II, Thiruppapuliur, Cuddalore in O.S.No.9 of 2013 on the file of the District Munsif Court, Panruti.

3. Only the second respondent, who had laid the suit in O.S.No.9 of 2013 abovestated is contesting the transfer petitions laid by the petitioners. The second petitioner is stated to be the power of attorney of the first petitioner.

4. Thus, it is found that the three suits are pending between the parties in respect of the properties of the deceased Parthasarathy Naicker and accordingly as rightly argued by the petitioners' counsel, the issues involved in all the suits are almost the same and considering the nature of the properties involved in the abovesaid proceeding, the parties involved therein as regards the same being similar and interconnected with each other and in such view of the matter, praying for the consolidation of the all the three suits and the determination of the three suits by one and the same court, the present Transfer Miscellaneous Petitions have come to be laid by the petitioners.

5. The second respondent's counsel contended that inasmuch as her suit is only for the relief of bare injunction, there is no need for the joint trial of the proceedings as sought for and hence prayed for the dismissal of the transfer petitions.

6. The other respondents had not chosen to contest the transfer requests of the petitioners and some respondents though entered appearance, at the final stage, remained absent and did not contest the matter.

7. Considering the nature of the proceedings above stated, it is found that they are more or less interconnected and pending between the same parties and more or less in respect of the same properties, as such, it is seen that all the suits abovestated pertain to the properties left by the deceased Parthasarathy Naicker and accordingly it is found that the scope of the issues involved between the parties as regards the abovesaid properties are almost similar and one and the same. In such view of the matter, in my considered opinion, it is necessary that all the suits should be tried and determined together by one and the same court to avoid conflict of decisions. Furthermore, by way of the joint trial of the abovesaid three suits, it is seen that the parties would be required to adduce common evidence in all the matters. Thus, the interest of justice is found to be advanced by ordering the

clubbing of the three suits together and joint trial of the same.

8. In the light of the abovesaid factors, O.S.No.30 of 2010 is withdrawn from the file of Additional Subordinate Court Puducherry and O.S.No.9 of 2013 is withdrawn from the file of District Munsif Court, Panruti and the abovesaid two suits are transferred to the file of the Principal District Court, Cuddalore for joint trial along with O.S.No.139 of 2013 pending on the file of Principal District Court, Cuddalore for disposal as per law.

9. Accordingly, the Transfer Miscellaneous Petitions are allowed. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

mfa

To

1. The District Munsif, Panruti .

2. The Principal District Judge,
District Court, Cuddalore.

3. Additional Subordinate Judge,
Additional Subordinate Court,
Puducherry.

+2cc to Mr.TS.Baskaran, Advocate, S.R.No. 64757

Tr.C.M.P.Nos.754 and 755 of 2013
and
M.P.No. 1 of 2013

RSK(CO)
GN(05/10/2018)

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