

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :20.09.2018
PRONOUNCED ON:25.09.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Tr.C.M.P.No.139 of 2017
and
C.M.P.No.2308 of 2017

1.Prema

2.Minor.Priyatharsini

3.Minor. Prithiyuksha

4.Minor.Vishal

[Petitioners 2 to 4 are represented
by their mother/natural guardian]

...Petitioners

Vs

1.Ambika

2.Abinaya

3.Minor Surman @ Sharma

[Respondent No.3 represented
by her mother/natural guardian
first respondent]

4.The Thasildar
Perambalur.

5.The Superintendent of Police,
Perambalur.

6.The Government of Tamil Nadu,
Represented by the District Collector,
Perambalur.

7.The Thasildar,
Papanasam.

8.The District Collector,
Thanjavur.

...Respondents

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw and transfer the original suit in O.S.No.42 of 2016, on the file of the District Munsif Court, Papanasam to be heard and decided along with O.S.No.98 of 2016, on the file of the District Munsif, Perambalur.

For Petitioners : M/s.R.Poornima
For RR1 to R3 : No appearance
Set exparte
Vide order dated 20.09.2018
For RR4 to R8 : Mr.M.Venkadesh Kumar, GA (CS)

O R D E R

The Transfer Miscellaneous Petition has been laid by the petitioners seeking transfer of O.S.No.42 of 2016 from the file of the District Munsif Court, Papanasam to the file of the District Munsif Court, Perambalur for joint trial along with O.S.No.98 of 2016.

2. Materials placed on record go to show that the petitioners had laid O.S.No.98 of 2016 against the respondents No.1, 6 and 7 seeking for the relief of declaration that the first petitioner is the wife of the deceased Vellinathan and that the petitioners 2 to 4 are the children born to the first plaintiff and deceased Vellinathan and also prayed for other allied reliefs from the respondents No.6 and 7 qua the retirement and terminal benefits of the deceased Vellinathan. Similarly, it is also seen that the respondents 1 to 3 have laid O.S.No.42 of 2016 against the petitioners and the respondents 4 to 8 on the file of the District Munsif Court, Papanasam seeking for the relief of declaration that the first respondent is the legally wedded wife of the deceased Vellinathan and that the respondents 1 to 3 are the legal representatives of the deceased Vellinathan and for the other allied retirement and terminal benefits from the respondents 4 to 8. Now, according to the petitioners, only after the institution of their suit, the respondents 1 to 3 have laid the suit at Papanasam court, with a view to deprive the benefits to which the petitioners are entitled to and according to the petitioners, inasmuch as the cause of action for both the suits are one and the same and by way of clubbing both the suits and the joint trial of the same, the parties would not be prejudiced in any manner and inasmuch the common issues arise in both the suits and the determination of both the suits by different forums would also lead to conflict of decisions and the joint trial of both the suits would also enable the parties to adduce common evidence in both the matters and accordingly has come forward with the present transfer petition seeking the transfer of the suit proceeding from Papanasam Court to Perambalur Court.

3. As rightly put forth by the petitioners, the issues involved in both the suits as abovenoted are found to be one and the same and based on the same cause of action. Accordingly, it is seen that the parties involved in both the suits would be required to adduce common evidence, if the matters are jointly tried and determined by one and the same court. Furthermore, the determination of the two suits by the same court would also avoid conflict of decision. It is further stated that the respondents 4 to 8 would also not put to any loss or hardship or prejudicially affected, if both the proceedings are tried at Perambalur Court.

4. In so far as, this matter is concerned, the respondents 1 to 3 had not chosen to contest the transfer request of the petitioners and accordingly they had remained absent, though had been served and accordingly been set exparte. The other respondents are represented by the Government pleader and the other respondents are only formal parties to the proceeding laid by the parties as abovenoted. Thus, it is found that the petitioners have made out a justifiable cause for seeking the transfer as prayed for.

5. For the reasons aforesaid, O.S.No.42 of 2016 is withdrawn from the file of the District Munsif Court, Papanasam and transferred to the file of the District Munsif Court, Perambalur for joint trial along with O.S.No.98 of 2016. Accordingly, the Transfer Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition, if any, is closed.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

mfa

To

1. The District Munsif Court, Papanasam.

2. The District Munsif Court, Perambalur.

+1 CC to M/s.R. Poornima, advocate sr 65330.

+1 CC to Additional Govt. Pleader sr 66435.

Tr.C.M.P.No.139 of 2017
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AK(CO)
SP(12/10/2018)