

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Transfer CMP. No.490 of 2017

&

CMP No.10119 of 2017

Lakshmanasamy .. Petitioner / 4<sup>th</sup> Defendant

Vs

1. Ayyannan
2. Ravi @ Muthuselvan
3. Elango @ Sanjeevi Raja .. Respondents 1 to 3/Plaintiffs
4. Thambiran Padayachi  
(Rep.by power of Attorney  
holder C.Srinivasan)  
Muthu Padayachi(died)
5. Ramasamy
6. Velayammal
7. Thilagavathy .. Respondents 4 to 7/  
Defendants 1 to 3 & 5 & 6

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure with a prayer to withdraw the suit in O.S.No.72 of 2010 from the file of Additional District Judge, Namakkal and to transfer the same to the file of Principal District Judge, Erode.

For Petitioner : Mr.Poovendra Perumal for  
M/s Sai Bharath and Ilan

For Respondents : R1 to R3 - Mr. S. Kalyanaraman  
R4 to R7 - No appearance

O R D E R

This Petition is filed to withdraw the suit in O.S.No.72 of 2010 from the file of Additional District Judge, Namakkal and to transfer the same to the file of Principal District Judge, Erode. The petitioner is the 4<sup>th</sup> defendant in O.S.No.72 of 2010 now pending before the Additional District Court, Namakkal. The said suit has been filed by the plaintiff for the relief of partition.

2. Today, when the petition is taken up for consideration, the learned Counsel appearing for the petitioner and the respondents 1 to 3 are present. The learned Counsel appearing for the petitioner would contend that during the time of trial proceedings, the Presiding Officer of the I Additional District Court, Namakkal is unnecessarily made a comment and without giving sufficient opportunity attempted to dispose the case. Hence, for the reason stated above, the petitioner apprehends over the Court proceedings held in Additional District Court and for the above said reasons, he filed this application now before this Court.

3. On the other hand, the learned Counsel appearing for the respondent would submit that as of now, the Presiding Officer, who conducted the trial of the said suit in earlier stage, was retired from the service and hence it is unnecessary for the petitioner having apprehension against the said Court.

4. The contention raised by the respondent has not been denied on the side of the petitioner. In fact, the application has been filed by the petitioner making various allegations against the Presiding Officer. The main contention raised by the petitioner is that the Presiding Officer is in a prejudiced mood towards the petitioner. However, since as of now, the said Officer is not presided over the said Court, it is unnecessary to the petitioner having apprehension over the said Court. Mere apprehension is not a ground to transfer the proceedings from one Court to another Court.

5. In the light of the above discussions, the Transfer Civil Miscellaneous Petition is dismissed. The connected miscellaneous petition is closed. No costs.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vrn  
To

1. The Additional District Court, Namakkal.

2. The Principal District Judge, Erode.

+1 cc to M/s.Sai & Bharath, Advocate Sr.No.81641

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CSL/28.12.2018