

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Transfer CMP. No.784 of 2018 &
CMP No.19413 of 2018

P. Vijaya

Petitioner/Plaintiff

Vs

1. C. Kuppusamy
2. K. Kandasamy
3. K. Rajeshwari
4. K. Indiragandhi

Respondents/Defendants

PRAYER:

Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw the Suit in O.S.No.35 of 2018 from the file of Principal District Court, Ooty and to transfer the same to the competent Court at Erode District.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.M.Rajasekhar

O R D E R

This Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw the Suit in O.S.No.35 of 2018 from the file of Principal District Court, Ooty and to transfer the same to the competent Court at Erode District.

2. The petitioner is the Plaintiff in OS No.35 of 2018 pending on the file of Principal District Court, Ooty. This application has been filed by the petitioner seeking the relief to withdraw the Suit in OS No.35 of 2018 pending on the file of Principal District Court, Ooty and to transfer the same to the competent Court at Erode.

3. The case of the petitioner is that she had filed a Suit against the respondents seeking the relief to declare the sale deed dated 04.04.2014 executed by the 1st defendant in favour of the defendants 3 and 4 as null and void and for

consequential permanent injunction restraining the defendants 3 & 4 from creating any encumbrance over the suit property. Due to the ill-health, the petitioner is facing difficulty in attending the Court Proceedings at Principal District Court, Ooty. Hence, she has come forward with this petition for seeking relief as already stated in the 1st para of this Order.

4. The only ground raised by the learned Counsel appearing for the petitioner is that the petitioner is aged about 50 years and suffering from menopause related complications. Further, since the Principal District Court, Ooty is situated in hill station, it is very difficult to reach Ooty in rainy season. Accordingly, if the said suit is withdrawn and transferred to any other court, it would be easy for the petitioner to attend the Court proceedings.

5. Per contra, the learned Counsel appearing for the respondent would submit that it is not difficult for the petitioner to attend the Court proceedings in Ooty. Further, he has submitted that the petitioner has not produced any relevant document to prove her illness. Accordingly, he prayed to dismiss the Transfer CMP.

6. Now, considering either side submissions, it is relevant to see the residential address of the petitioner and the respondent as mentioned in the affidavit filed by the petitioner. According to the petitioner's averments, both the petitioner and the respondent are residing in Erode District. Even though, the property and dispute are existing at Ooty, the Suit now required to be transferred by the petitioner is filed for declaring the sale deed dated 04.04.2014 is null and void. Thereby, if the suit is transferred from Ooty to Erode means, both the petitioner and the respondent are comfortable in attending the Court proceedings. However, at the time of arguments, both the counsels requested and gave consent to transfer the above said suit to Principal District Court, Tiruppur. Further, it is to be noted that Tiruppur is situated in between Erode and Ooty.

7. Therefore, in view of the above discussions and the submissions made by either side counsels, this Court is inclined to allow this petition.

8. In the result, the Transfer civil Miscellaneous Petition is allowed. The suit in O.S.No.35 of 2018 is ordered to be withdrawn from the file of Principal District Court, Ooty and ordered to be transferred to the Principal District Court, Tiruppur. The learned Principal District Judge, Ooty is directed to transmit the relevant case records to the Principal District Court, Tiruppur within a period of two weeks from the date of

receipt of a copy of this order. On receipt of records, the Principal District Judge, Tiruppur is directed to dispose the case as expeditiously as possible. No costs. The connected miscellaneous petition is closed.

Vrn

05/12/2018

FOR BEING MENTIONED

This Petition having been posted on this day "FOR BEING MENTIONED in pursuance to the Order of this Court dated 05.12.2018 and made herein in the presence of the above said Advocates, this court made the following Order:-

This matter has been posted today under the caption '' for being mentioned''.

2. The learned counsel appearing for the petitioner as well as the respondents are present.

3. It is pointed out by the learned counsel appearing for the respondents that at the time of disposing of the matter, they have not given any consent to transfer the matter to the file of Principal District Court, Tiruppur, since the property in question is situated at Ooty District.

4. Heard both sides. Even though, the respondents have not given any consent to transfer the matter to the file of Principal District Court, Tiruppur, considering the facts and circumstances, that the Principal District Court, Tiruppur is situated in between Ooty and Erode, the Principal District Court, Tiruppur is an appropriate place for deciding the issue involved in the suit in O.S.No.35 of 2018, this Court is of the view that no further orders are necessary in this Transfer Miscellaneous petition.

5. Accordingly, the order dated 05.12.2018, shall remain intact.

dn/sbn

31.01.2019

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Sd/-

Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

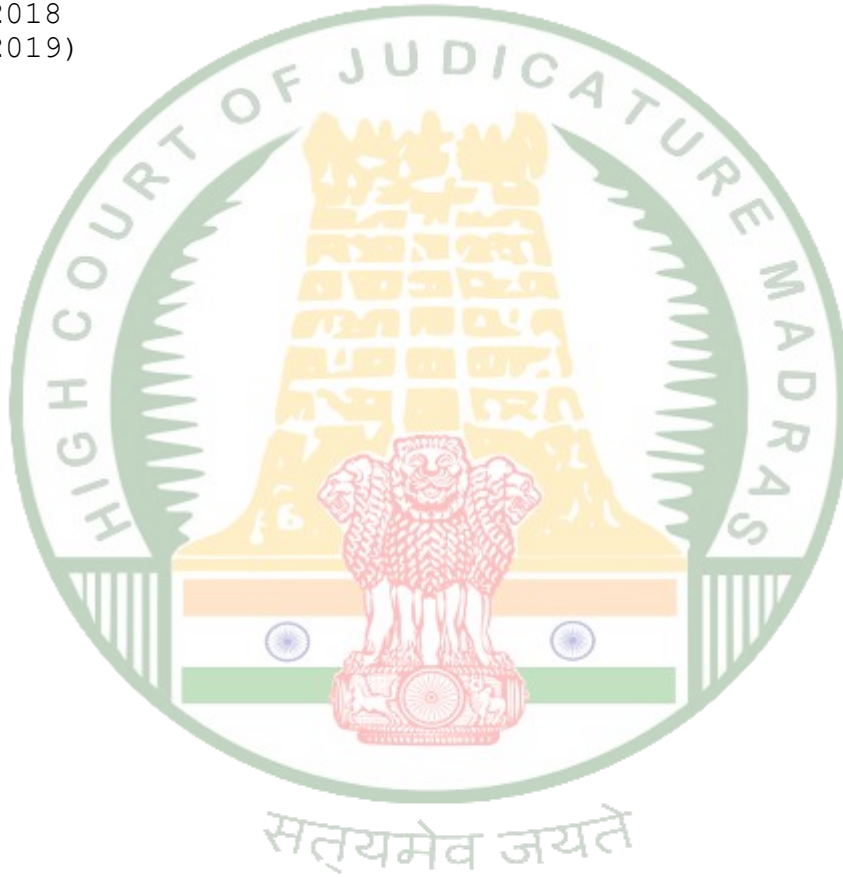
To

1. The Principal District Court, Ooty
2. The Principal District Court, Tiruppur
3. The Competent Court, Erode.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.83892
+1cc to Mr.M.Rajasekhar, Advocate, S.R.No.83542

Transfer CMP No.784 of 2018

RV (Co)
CS/26/12/2018
GN(01/03/2019)



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