

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.11.2018

Coram

THE HON'BLE MR. JUSTICE R. PONGIAPPAN

Tr. C.M.P. No.811 of 2018

and

CMP.No.20020 of 2018

Rajaram Petitioner/2nd Defendant

VS.

Latha Respondent/Plaintiff

Prayer: The Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure with a prayer to withdraw the O.S.No.185 of 2018 on the file of 1st Additional Subordinate Court, Villupuram and to transfer the same to the Subordinate Court, Coimbatore.

For Petitioner : Mr. Anand Subramanian

ORDER

The petitioner herein is the 2nd defendant in OS No. 185 of 2018 pending on the file of the I Additional Subordinate Court, Villupuram. The said Suit has been filed by the respondent seeking the relief to declare that the settlement deed dated 28.12.2007 by the 1st defendant in favour of the 2nd defendant is illegal, null and void and not binding. Further, seeking the relief of permanent injunction.

2) Admittedly, as of now, the said suit is posted for trial after framing the issues. The grievance expressed by the petitioner is that being the senior citizen, the petitioner and the 1st defendant is not in a position to move to Villupuram for attending the case. Further, the petitioner is having apprehension to proceed the case in Subordinate Court, Villupuram. Considering the grounds raised by the petitioner, it is to be determined for proceeding the civil suit, the presence of parties is not necessary for every hearing. Only at the time of examining the witness and for giving the instructions to the advocate, the presence of party is necessary. In the said circumstances, reaching Villupuram from Coimbatore is not a difficult task to the petitioner.

3) Eventhough, this Court is having every power to transfer the matters pending in any court by exercising the

powers under Section 24 of CPC, either on summon or on request of either side parties. The said exercise have to be done in the matter only when there is a sufficient material to show that the parties are likely not to get justice before the Presiding officer of a particular Court and it is essential, in the interest of justice, to transfer the matter to any other Court.

4) In this case, the petitioner did not indicate the circumstances, which are necessary for allowing this application. Further more, since the suit is pending in the Subordinate Court, Villupuram, for filing the appeal, the aggrieved party may again come to Villupuram.

5) In the light of the above discussions, I am of the considered opinion that this Court is not inclined to allow this application. Accordingly, the petition is dismissed. Consequently connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

vrn

To
The 1st Additional Subordinate Court, Villupuram

+1cc to Mr.Anand Subramanian, Advocate SR.No.78727

सत्यमेव जयते Tr. C.M.P. No.811 of 2018

MR (CO)

GMV (10/12/2018)

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