



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Transfer C.M.P. (MD) No.160 of 2018
and C.M.P. (MD) No.3773 of 2018

Indra

... Petitioner/1st defendant

-vs-

Pandurangan (died)

1. Patturoja

2. Latha

3. Abirami

4. Srinivasan

5. Meena

... Respondents/Plaintiffs

... Respondents/2 to 4 defendants

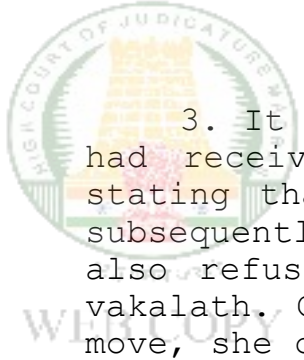
Prayer: Petition filed under Section 24 of the Code of Civil Procedure praying to withdraw and transfer the proceedings in O.S.No.62 of 2012 on the file of the Additional District Court, Vellore to the District Court at Dindigul and for other suitable orders.

For Petitioner : Mr.H.Lakshmi Shankar

ORDER

The revision petitioner is the 1st defendant in O.S.No.62 of 2012 on the file of the Additional District Court, Vellore and in the suit, the plaintiff has filed the suit seeking for a direction to the defendants to pay the suit amount of Rs.28,56,000/- together with future interest @ 12% per annum on Rs.21,00,000/- from the date of the plaint till the full and final payment among various other reliefs. Now, the revision petitioner has approached this Court seeking the relief of transfer from the Additional District Court, Vellore to the District Court at Dindigul.

2. It is the case of the petitioner / 1st defendant that alleging that her deceased husband had borrowed money on 25.11.2008, the suit had been filed by the plaintiff against her and her children, who are not in good terms with her, were instrumental to file the suit to grab the property. It is the further case of the petitioner that except the petitioner, her children were set exparte and she is made to travel from Dindigul to Vellore to contest the matter, as her residence is situated at Dindigul. Her son and daughter have colluded with the plaintiff and allegedly created the suit promissory note. In the year 2014, the petitioner sought for recalling the plaintiff's evidence and also for appointment of an Advocate Commissioner and the proceedings are pending at that stage.



3. It is submitted by the petitioner that in the meanwhile, she had received a letter from her Advocate during December, 2015, stating that the suit was dismissed for default and the same was subsequently restored without her knowledge. Further, the Advocate also refused to appear for the petitioner, thereby, withdrew his vakalath. Contending that she was completely disabled and unable to move, she could not be able to contest the petitions filed by her to reopen, recall and cross examine the witnesses before the Court at Vellore and therefore, it is pleaded that the suit in O.S.No.62 of 2012 pending on the file of the Additional District Court, Vellore, in the interest of justice, may be transferred to the file of the District Court at Dindigul.

4. Heard the learned counsel for the petitioner and the notice to other side is dispensed with, in view of the nature of disposal of this case.

5. On a bare reading of the reasons stated in the affidavit filed in support of the petition, it is seen that the petitioner has made vague averments in support of her prayer for transfer without any material particulars. It is stated by the petitioner that the husband of the 2nd respondent herein is a Policeman and she apprehended that there may be chances of misusing his official power to get a suitable order. Mere apprehension cannot be the ground for transfer of the case from one District to another District in the absence of any proof thereof and the case cannot be transferred, mainly taking into consideration the well being of only one person, namely, the petitioner herein, when there are several other defendants involved in the matter, who have not come out with such plea.

6. The next reason urged by the petitioner for transfer is her health condition and it is pertinent to mention here that she need not necessarily appear before the Court in all hearings, except few insisted upon by the Trial Court, rather she is expected of rendering complete particulars to the Advocate, conducting the case on her behalf.

7. In view of what is narrated hereinabove, finding no merits in this petition, this Court is of the view that the Transfer Petition is liable to be dismissed.

8. In the result,

a) this Transfer Petition is dismissed;

b) learned Additional District Judge, Vellore is directed to dispose of O.S.No.62 of 2012 within a period of four months from the date of receipt of a copy of this order by conducting trial on day to-day basis without giving adjournment to either parties and the parties shall extend their fullest cooperation for early disposal of the case within the stipulated period as indicated above.



No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (T&P)

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/True Copy/

Sub Assistant Registrar

To:

1. The Additional District Judge,
Vellore.
2. The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai. (**2 Copies**)

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ES/SKN/RSK/SAR 4/13.06.2018/3P/4C