



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Transfer C.M.P.(MD) No.452 of 2017
and C.M.P.(MD) No.8882 of 2017

Kanchana

... Petitioner/Plaintiff

-vs-

1. Muthu
2. Bose

... Respondents/Defendants

Prayer: Petition filed under Section 24 of the Code of Civil Procedure praying to withdraw the suit in O.S.No.108 of 2014 on the file of the District Munsif Court, Devakottai and transfer the same to any other competent Court in Sivagangai District and thus render justice.

For Petitioner : Mr.J.Anandkumar
For Respondents : Mr.C.Jeya Prakash

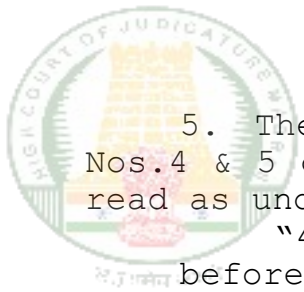
O R D E R

The plaintiff in O.S.No.108 of 2014 on the file of the District Munsif Court, Devakottai is the petitioner before this Court and she has filed this transfer petition with the prayer to withdraw the suit in O.S.No.108 of 2014 on the file of the District Munsif Court, Devakottai and transfer the same to any other competent Court in Sivagangai District.

2. It is the case of the petitioner that she filed the suit in O.S.No.108 of 2014 before the learned District Munsif Court, Devakottai, seeking declaration of suit property and permanent injunction against the respondents / defendants and the said suit is pending.

3. It is the further case of the petitioner that whenever the first defendant, namely, Muthu, S/o.Kasi coming to the Court for hearing, he used to move freely with the members of the Court, enter into the office at any time during office hours and used to sit in any of the table of any staff.

4. The petitioner also states that the respondents, who are defendants in the said suit can go to any extent with the help of staff members of the Court and obtain the decree in their favour. For the above apprehension, she has filed the present transfer petition before this Court.



5. The petitioner has narrated several reasons in Paragraph Nos.4 & 5 of the affidavit filed in support of this petition, which read as under:

"4. The petitioner submits that pending for trial before the Hon'ble District Court, Devakottai. In these circumstances the petitioner submits that whenever the first respondent coming to the court for hearing they used to move freely inside the members of the Court. Further the first respondent used to enter into the office at any time during office time and used to sit in any of the table of any staff. In these circumstances the first respondent openly declared that he has made all arrangements to get the decree of the suit in their favour. On hearing the same and since the defendants are highly influential persons in that locality and among the staff of the concerned court the petitioner reasonably apprehend that the defendants can go to any extent with the help of staff members of the court to obtain the decree of the suit in their favour.

5. The petitioner submits that the attitude of the respondents herein in openly declaring that the respondents will get favourable orders creates doubt in the mind of the petitioner herein that there will not be any fair trial before the court below. Hence, the petitioner herein is constrained to file the present application for transfer. It is further submitted that if the trial is allowed to continue in at the present stage the same will result in miscarriage of justice. Hence, it is just and necessary to protect the interest of the petitioner by granting suitable interim orders."

6. On a bare reading of the reasons stated in Paragraph Nos.4 & 5 of the affidavit, it is seen that the petitioner has made vague allegations for seeking transfer in this case. The allegations are levelled only as against the respondents / defendants and not against any Judicial Officer or any other persons and for that reason, the suit cannot be transferred to any other Court.

7. The petitioner, who is the Plaintiff herself filed the suit before the said Court in the year 2014 and only to drag on the proceedings, she has filed this petition unnecessarily seeking transfer on some flimsy reasons, which cannot be accepted by this Court. Though the suit was filed in the year 2014, the same is pending for about 3½ years without any progress, because of this vexatious proceedings initiated by the petitioner / plaintiff.

8. In the result,

a) this transfer petition is dismissed;

b) the Trial Court, namely, District Munsif Court, Devakottai is directed to dispose of the suit in O.S.No.108 of 2014 within a period of four months from the date of receipt of a copy of this order without giving any adjournment to either parties;



c) both the parties are directed to extend their fullest co-operation for early disposal of the suit within the time limit as specified by this Court. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To:

The District Munsif,
Devakottai.

+1cc to M/S.J.Anandkumar, Advocate SR.No. 59622

+1cc to M/S.S.Muthukumar, Advocate SR.No. 59641

Transfer C.M.P. (MD) No.452 of 2017

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JM/SV MMS/SAR 3/09.04.2018/3P/4C