

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.03.2019

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

TR.CMP.NO.20 of 2019
and
C.M.P.NO.1032 OF 2019

S.Nagaraj
Proprietor,
M/s.Kumar Engineering,
No.36-A, Venugopal Pillai Lay-out,
Pappanaickenpalayam,
Coimbatore-641 031 ... Petitioner/Defendant

Vs.

Nesamony ... Respondent/Plaintiff

PRAYER: Transfer Civil Miscellaneous petitions filed under section 24 of the Civil Procedure Code, praying to withdraw suit in O.S.No.164 of 2018 on the file of the Subordinate Court, Kuzhithurai and transfer the same to the file of the Subordinate Court, Coimbatore.

For petitioner : Mr.L.Mouli
For respondent : Mr.G.George Raja

O R D E R

This petition is filed by the petitioner seeking to withdraw suit in O.S.No.164 of 2018 from the file of Subordinate Court, Kuzhithurai and transfer the same to Subordinate Court, Coimbatore.

2. The petitioner filed a suit in O.S.No.1795 of 2017 for recovery of money, for a sum of Rs.30,500/- with interest, before the II Additional District Munsif Court, Coimbatore, on 03.11.2017. Thereafter, the respondent filed a suit in O.S.No.164 of 2018 claiming compensation for a sum of Rs.7,61,830/- with interest, before the Sub Court, Kuzhithurai against the petitioner.

3. According to the petitioner, the case filed by the respondent is a counter blast. The respondent filed written statement before the District Munsif Court, Coimbatore on

31.07.2018. If at all, he has any grievance with regard to the suit, he can file a counter claim before the District Munsif Court, Coimbatore itself and he cannot file a separate claim, that too, before another Court. The learned counsel appearing for the respondent would vehemently object the contentions raised by the petitioner and sought for dismissal of the above petition. The materials placed before this Court reveal that major portion of the cause of action arose within the jurisdiction of Coimbatore Courts. The respondent is also contesting the suit filed by the petitioner at Coimbatore. The cause of action for both suits is also the same. As contented by the petitioner, the petitioner could have raised a counter claim.

4. Considering the cause of action and to avoid multicplity of proceedings, this Court is inclined to transfer the suit filed by the respondent viz. O.S.No.164 of 2018 pending on the file of Subordinate Court, Kuzhithurai to Coimbatore. Considering the pecuniary jurisdiction, both cases are transferred to the file of Sub Court, Coimbatore to be tried together along with O.S.No.1795 of 2017.

5. Accordingly, the suit filed by the respondent in O.S.No.164 of 2018 on the file of Subordinate Court, Kuzhithurai and the suit filed by the petitioner in O.S.No.1795 of 2017 on the file of II Additional District Munsif Court, Coimbatore are withdrawn from the file of the respective Courts, and transferred to Principal Sub Court, Coimbatore for joint trial. The Principal Sub Judge, Coimbatore is directed to renumber both the suits, issue notice to the parties and dispose of the same as expeditiously as possible.

5. The Transfer Civil Miscellaneous Petition is ordered accordingly. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Deputy Registrar (J)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Subordinate Judge,
Coimbatore.
2. The Subordinate Judge, Kuzhithurai.

3. The II Additional District Munsif,
Coimbatore.

+1 cc to Mr.C.Murali, Advocate Sr.No.22130

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ssd(co)
CSL/14.05.2019



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