

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2019

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.Nos.21 and 22 of 2019
and C.M.P.Nos.1133 and 1136 of 2019

R.Chitra .. Petitioner
[in both Tr.C.M.Ps.]

versus

1.M.Saraswathy
2.R.Rajendran
3.R.Gunavathi

.. RR1 to 3 in
Tr.C.M.P.21 & 22 of 2019
RR1 to 3 in both
Tr.c.M.Ps.

4.Thirumalaisamy ... R4 in Tr.C.M.P.No.21/2019

Common Prayer: Petitions are filed under Section 24 of C.P.C., to withdraw A.S.Nos.64 and 65 of 2016 pending on the file of the IV Additional District Court, Coimbatore and transfer the same to the file of the I Additional District Court, Coimbatore, to be tried along with the appeal suits in A.S.Nos.49 and 50 of 2017 respectively, pending on its file.

For Petitioner : Mr.D.Veerasekaran
[in both Tr.C.M.Ps.]

C O M M O N O R D E R

These Transfer Civil Miscellaneous Petitions have been filed under Section 24 of the Code of Civil Procedure to withdraw the appeal suits i.e. A.S.Nos.64 and 65 of 2016 pending on the file of the IV Additional District Court, Coimbatore and transfer the same to the file of the I Additional District Court, Coimbatore, to be tried along with the appeal suits in A.S.Nos.49 and 50 of 2017 respectively, pending on its file.

2. Today, when these petitions are taken up for admission, I have heard the arguments advanced by Mr.D.Veerasekaran, learned counsel appearing for the petitioner.

3. According to the petitioner, initially, the first respondent herein has filed 3 suits i.e., O.S.Nos.646 of 2008, 544 of 2010 and 253 of 2013 before the Principal Sub Court, Coimbatore. At the same time, the petitioner has filed a suit in O.S.No.520 of 2010 before the same Court for the relief of permanent injunction.

4. The learned Principal Subordinate Judge, Coimbatore, tried the above said four suits jointly and on 01.04.2016, disposed the same. Against the common judgment and decree passed by the learned Principal Subordinate Judge, Coimbatore, dated 01.04.2016, the petitioner as well as the respondents had filed the petition mentioned appeal suits. As of now, 2 appeals pertaining to the same judgment are pending before the I Additional District Court, Coimbatore in A.S.Nos.49 and 50 of 2017. On the other hand, the remaining 2 appeals are pending before the IV Additional District Court, Coimbatore in A.S.Nos.64 and 65 of 2016 for disposal. In the said circumstances, the petitioner has approached this Court by way of filing the present Transfer Civil Miscellaneous Petitions for the relief stated earlier in the first paragraph of this order.

5. The learned counsel appearing for the petitioner would contend that, since the four appeals were prepared against the common judgment dated 01.04.2016, it is appropriate to decide all the appeal suits by a learned single Judge for avoiding the conflicting decisions.

6. Now, on going through the arguments advanced by the learned counsel appearing for the petitioner, it is true if the four appeals are decided by two different Judges, there may be a chance for coming out the conflicting decisions. However, under Section 24(3) of the Code of Civil Procedure, the I Additional District Judge and IV Additional District Judge are subordinate to the Principal District Judge. So, the petitioner is having the right to file a petition before the learned Principal District Judge, for the relief as stated in these petitions, or otherwise, filing a memo before the respective Court is sufficient to transfer the concerned appeals for joint trial along with the connected appeals. But without availing the said opportunities, the petitioner has straight away approached this Court for the relief as stated supra. Hence, this Court decided to issue some directions to the learned Principal District Judge, Coimbatore, to look into the matters, particularly, on going through the appeal papers, if they are arising out of the common judgment directed to transfer all the appeals to a single Court for joint or simultaneous disposal.

7. In the result, these Transfer Civil Miscellaneous Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri

To

1.The Principal District Judge, Coimbatore.

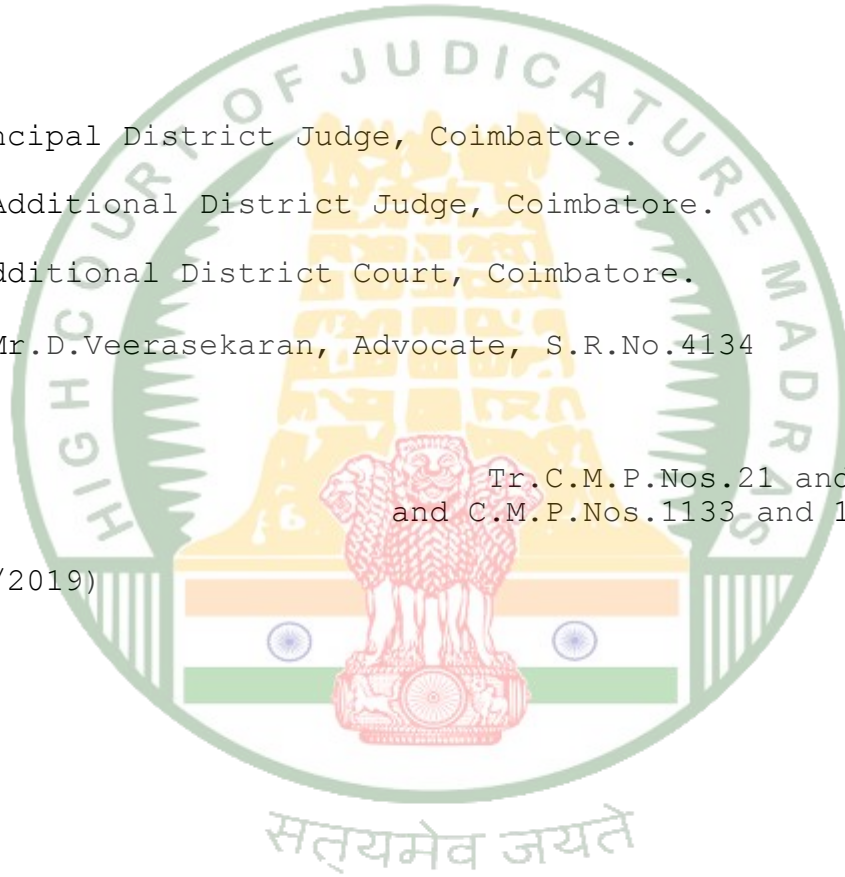
2.The IV Additional District Judge, Coimbatore.

3.The I Additional District Court, Coimbatore.

+1 cc to Mr.D.Veerasekaran, Advocate, S.R.No.4134

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EV(CO)
SSM(13/02/2019)



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