

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR.C.M.P.No.143 of 2019

V.Ganavallal

...Petitioner

Vs.

1.L.Chandrabose

2.Annammal

.. Respondents

Transfer Civil Miscellaneous Petition filed under Section 24 CPC to withdraw A.S.No.19 of 2017 pending on the file of Sub Court, Cheyyar, Thiruvannamalai and transfer the same to the file of Additional District Judge, Arni, Thiruvannamalai District to be tried alongwith A.S.No.18 of 2018, which is pending on the file of Additional District Judge, Arni.

For petitioner : Mr.V.K.Rajagopalan

For respondent : No appearance

ORDER

This petition has been filed by the petitioner seeking to withdraw A.S.No.19 of 2017 pending on the file of Sub Court, Cheyyar, Thiruvannamalai and transfer the same to the file of learned Additional District Judge, Arni, Thiruvannamalai District to be tried along with A.S.No.18 of 2018, which is pending on the file of learned Additional District Judge, Arni, Tiruvannamalai.

2. The case of the petitioner is that he had filed a suit in O.S.No.112 of 2017 before the Subordinate Court, Cheyyar, Tiruvannamalai for declaration and injunction against the respondents herein. The first respondent had also filed a suit in OS.No.376 of 2008 before the Additional District Munsif, Cheyyar, Tiruvannamalai for declaration and injunction against the petitioner. Both the suits are pertaining to the same

property. The suit filed by the petitioner herein in O.S.No.112 of 2017 has been dismissed by the learned Sub Judge, Cheyyar on 15.12.2016. Against the same, the petitioner has preferred a first appeal and the same is pending before the Additional District Judge, Arani, Tiruvannamalai District. The suit filed by the first respondent in OS.No.376 of 2008 was decreed in his favour on 01.02.2017. Against the said decree, the petitioner herein also preferred a first appeal before the Sub Court, Cheyyar, Tiruvannamalai. Both the appeals were preferred with regard to the same property and pending before two different Courts have to be clubbed together for a trial by the first appellate Court. Hence, for avoiding multiplicity of legal proceedings and also the parties and the subject property are one and the same in both the appeals, the petitioner herein prayed that the appeal pending before the learned Sub Judge, Cheyyar, Tiruvannamalai may be directed to be transferred to the file of learned Additional District Judge, Arani to be heard together since the subject matter and property of both the matters are one and the same, no prejudice would be caused to the respondents and to avoid unnecessary travel and also to avoid two different orders being passed, the petitioner prayed that for the welfare of parties concerned, both the matters can be tried by the same judge. Hence, he prayed that AS.No.19 of 2017 pending before Subordinate Court, Cheyyar, Tiruvannamalai may be transferred to the file of Additional District Court, Arani, Tiruvannamalai, where AS.No.18 of 2018 is pending and for joint trial of the same.

3. None appeared for the respondents in spite of serving notice and the same was returned with an endorsement 'unclaimed'. Hence, substituted service was ordered and the same was published on 06.11.2019 in 'Makkal Kural' and the same has been filed before this Court. In view of the nonappearance of the parties concerned, this Court is inclined to take up the matter for final disposal.

4. Accordingly, this Court after hearing the learned counsel for the petitioner, is of the view that in order to avoid multiplicity of proceedings, as the subject matter and property of the both suits are one and the same, this Court is inclined to allow the petition filed by the petitioner herein.

5. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and the learned Subordinate Judge, Cheyyar, Tiruvannamalai is directed to transmit all the records pertaining to A.S.No.19 of 2017 to the file of learned Additional District Judge, Arani, Thiruvannamalai District within a period of four weeks from the date of receipt of a copy

of this order. On receipt of records, the learned Additional District Judge, Arni, Thiruvannamalai District is directed to club both the appeals and conduct a joint trial and dispose of the appeals as expeditiously as possible. No costs.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

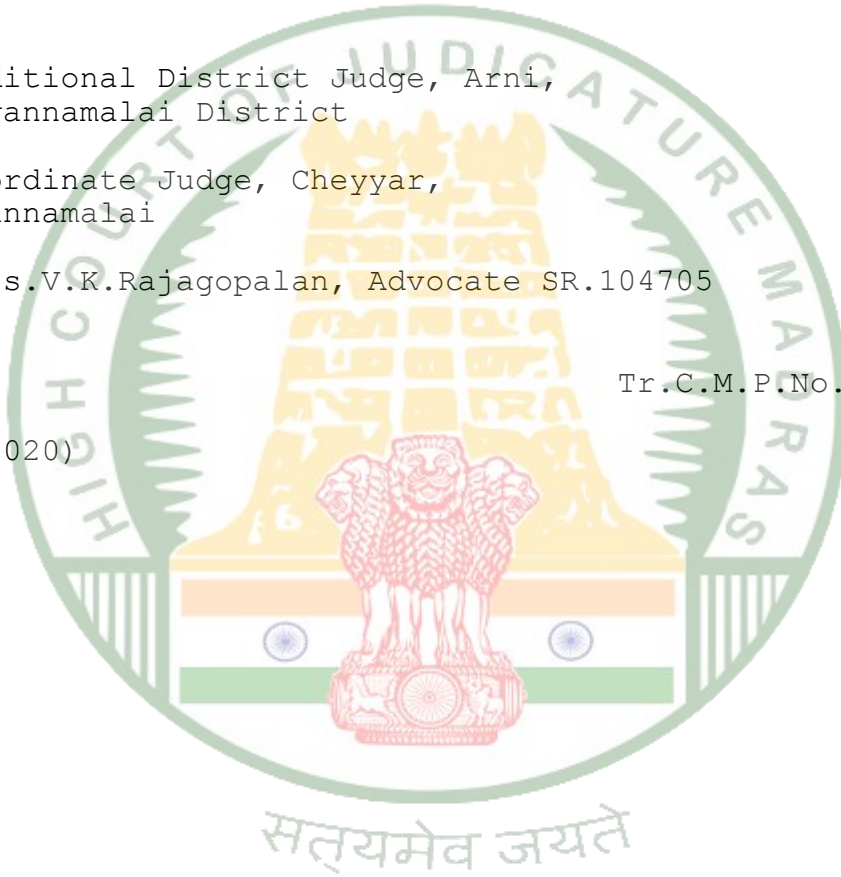
1.The Additional District Judge, Arni,
Thiruvannamalai District

2.The Subordinate Judge, Cheyyar,
Tiruvannamalai

+lcc to M/s.V.K.Rajagopalan, Advocate SR.104705

Tr.C.M.P.No.143 of 2019

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