

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.04.2019

Coram

The Honourable Mr.Justice N.SATHISH KUMAR

**C.R.P(PD)No.1019 of 2013
and
M.P.No.1 of 2013**

A.Palanathal

...Petitioner

Versus

1.M.Rangasamy
2.K.Velusamy
3.Palanathal
4.V.Murugesh
5.Kaliammal
6.Padmavathi @ Kannammal
7.Thilagaraj
8.Viswanathan
9.Rangasamy
10.R.Mariappan
11.M.Senguttuvan
12.R.Poobathi

...Respondents

This Civil Revision Petition is filed under Article 227 of the Constitution of India praying to strike off the plaint in O.S.No.803 of 2012 pending on the file of the II Additional Subordinate Judge, Coimbatore as the same is an abuse of process of law and not maintainable.

For Petitioner : Mr.K.P.Chandrasekaran

For Respondent - 1 : Mr.C.R.Prasannan
for Mr.A.Palaniappan

Respondents - 2
to 12 : Given up

ORDER

The above Civil Revision Petition arises against the order passed by the learned Principal District Judge, Coimbatore, in Transfer Original Petition No.263 of 2012, dated 02.02.2013, in and by which, the learned Principal District Judge ordered for transfer of the suit, in O.S.No.803 of 2012 pending on the file of the I Additional Subordinate Judge's Court, Coimbatore to the II Additional Subordinate Judge's Court, Coimbatore.

2. Admittedly, the suit O.S.No.407 of 2012 is pending on the file of the learned II Additional Subordinate Judge, Coimbatore, in respect of the same parties and properties, it also appears that the execution proceedings in E.P.No.85 of 2007 in O.S.No.1554 of 1994 is also pending on the file of the learned II

Additional Subordinate Judge, Coimbatore. At this stage, on 02.02.2013, the learned Principal District Judge, Coimbatore had ordered the transfer of suit O.S.No.803 of 2012 pending on the file of the I Additional Subordinate Court, Coimbatore to the file of II Additional Subordinate Court, Coimbatore.

3. It is to be noted that the parties and the issues involved in both O.S.No.407 of 2012 and E.P.No.85 of 2007 in O.S.No.1554 of 1994 are one and the same. When the suits are pending in due course, in order to avoid the conflict of orders, the learned Principal District Judge, Coimbatore ordered the transfer of suit O.S.No.803 of 2012 to the file of the II Additional Subordinate Court, Coimbatore where O.S.No.407 of 2012 and E.P.No.85 of 2007 in O.S.No.1554 of 1994 were pending. If the orders are obtained from two different Judges from two different Courts, conflict of orders will arise. Therefore, in order to avoid such conflict, the aforesaid transfer of suit was ordered by the learned Principal District Judge, Coimbatore. But, the petitioner entirely misunderstood the power of the Principal District Court, who merely transferred the suit from one Court to another

N.SATHISH KUMAR, J.,

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only in order to avoid the conflict of orders. So I do not find any error or illegality in the order of the learned Principal District Judge, Coimbatore.

4. In the result, this Civil Revision Petition is dismissed and the II Additional Subordinate Judge's Court, Coimbatore is directed to proceed with the suits and dispose of the same within a period of six months from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No

To
The II Additional Subordinate Judge,
Coimbatore.

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