

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. Nos.323, 330 & 331 of 2019

G.Azariah

... Petitioner in all cases

-vs-

1.Paresh K.Mehta

2.Ajay K.Mehta

3.Geetha P.Mehta

4.Sonal A.Mehta

... Respondents in all cases

Prayer in all Tr.C.M.Ps.: Petitions filed under Section 24 of C.P.C to withdraw the R.C.O.P. Nos.1439 & 1280 of 2012 and 800 of 2013 pending on the file of the XV Small Causes Court, Chennai and transfer the same to the file of the District Munsif Court, Poonamallee, Tiruvallur District for its proper adjudication.

For Petitioner : Mr.N.Nagu Sah in all cases

For Respondents: Mr.R.Ganesan for R1 in all Tr.C.M.Ps

No appearance for R2 to R4
in all Tr.C.M.Ps

COMMON ORDER

Transfer C.M.Ps have been filed to transfer the R.C.O.P. Nos.1439 & 1280 of 2012 and 800 of 2013 pending on the file of the XV Small Causes Court, Chennai to the file of the District Munsif Court, Poonamallee, Tiruvallur District.

2.Taking support from the order dated 08.04.2019 passed by this Court in Tr.C.M.P. No.152 of 2019 filed by the petitioner herein, learned counsel appearing for the petitioner would submit that this Court has already giving a finding that City Civil Court has no jurisdiction, transferred the suit in O.S. No.4730 of 2017 pending on the file of the XIV Assistant City Civil Court, Chennai to the file of the District Munsif Court, Poonamallee. According to the learned counsel appearing for the petitioner, in the present cases also, the same subject matter

is involved. As the City Civil Court has no jurisdiction and in the above R.C.O.Ps, cross examinations are over, the same are to be transferred to the file of the District Munsif Court, Poonamallee, Tiruvallur District for proper adjudication.

3. In view of the order dated 08.04.2019 passed in Tr.C.M.P. No.152 of 2019, this Court has no hesitation to transfer the above RCOPs to the file of the District Munsif Court, Poonamallee, Tiruvallur District.

4. At this stage, learned counsel appearing for the respondents, referring to Section 24(2) of the Civil Procedure Code, 1908 requested this Court to issue a direction to the learned District Munsif Court, Poonamallee to re-try the entire issue afresh for the simple reason that the City Civil Court has taken evidence without having jurisdiction and certain irregularities have also been complained of, while taking evidence. Learned counsel appearing for the respondents has no objection in transferring the above RCOPs.

5. It is necessary to extract Section 24(2) of the Civil Procedure Code as under:

'24.(2) Where any suit or proceeding has been transferred or withdrawn under sub-section (1), the Court which is thereafter to try or dispose of such suit or proceeding may, subject to any special directions in the case of any order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn.'

6. In the light of the above, the Transfer C.M.Ps are allowed and the R.C.O.P. Nos.1439 & 1280 of 2012 and 800 of 2013 pending on the file of the XV Small Causes Court, Chennai are withdrawn and transferred to the file of the District Munsif Court, Poonamallee, Tiruvallur District.

7. The District Munsif Court, Poonamallee, Tiruvallur District is directed to proceed afresh and complete the entire exercise expeditiously, preferably within a period of six months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

vga

To

1.The XV Judge,
Small Causes Court,
Chennai.

2.The District Munsif,
Poonamallee,
Tiruvallur District.

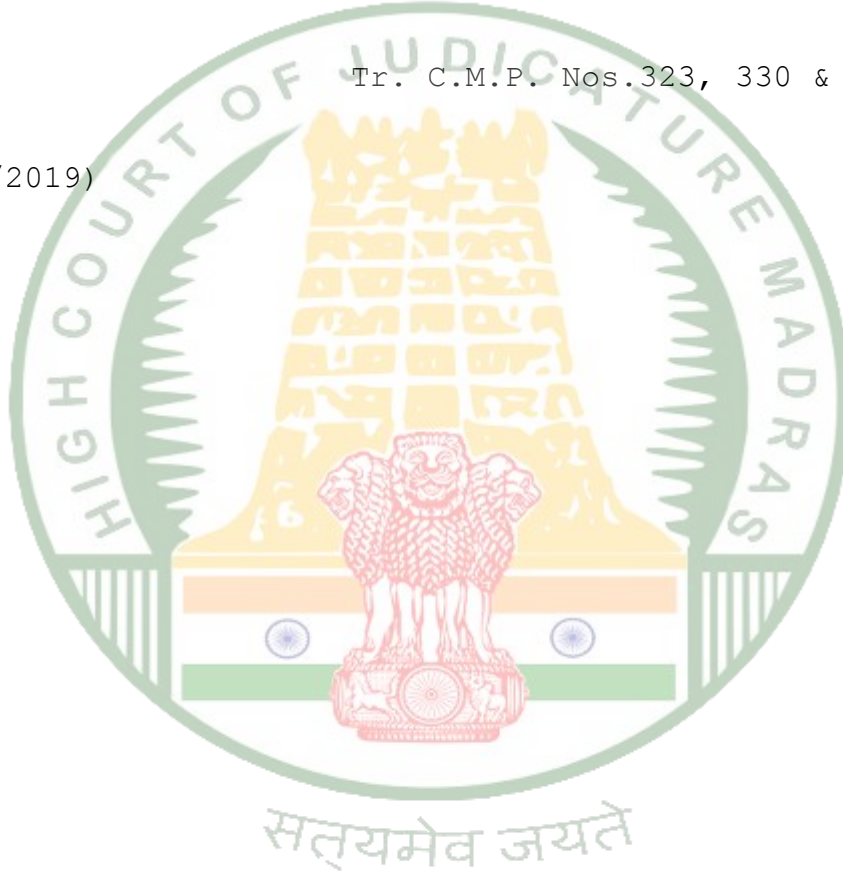
+lcc to Mr.N.Nagusah, Advocate, S.R.No.47352

+lcc to Mr.R.Ganesan, Advocate, S.R.No.47247

Tr. C.M.P. Nos.323, 330 & 331 of 2019

GP(CO)

RRS (23/07/2019)



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