

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.533 of 2019
and C.M.P. No.14887 of 2019

K.Shanmugam Petitioner/1st defendant

-vs-

1.J.Jayapraba
2.R.Saraswathi
3.R.Anusuya Respondents 1to3/Plaintiff 1to3
4.K.Karunakaran
5.K.Sivakandan
6.G.Kaliyaperumal Respondents 4to6/Defendants 2to4

Prayer: Petition filed under Section 24 of C.P.C to withdraw O.S. No.16 of 2018 pending on the file of III Additional District Court, Kallakurichi and transfer the same to the District Court, Cuddalore.

For Petitioner: Ms.S.S.Meenakumari for
Mr.D.Balachandran

For Respondents: Mr.E.Sathiya Raj for R1 to R3
Ms.R.Poornima for R4
No appearance for R5 & R6

O R D E R

The Transfer C.M.P. has been filed to transfer the O.S. No.16 of 2018 pending on the file of the III Additional District Court, Kallakurichi to the file of the District Court, Cuddalore.

2.Learned counsel appearing for the petitioner would submit that originally respondents 1 to 3 herein have filed a suit for partition and separate possession on the file of the Principal District Court, Villupuram in O.S. No.44 of 2016. Due to bifurcation of the District, it was re-numbered as O.S. No.16

of 2018 and transferred to the file of the III Additional District Court, Kallakurichi. Since the petitioner is aged about 64 years and he has undergone Heart surgery in the year 2010, he finds it difficult to undertake long journey, which is about 80 k.ms from Cuddalore to Kallakurichi. Therefore, if the O.S. No.16 of 2018 pending on the file of the III Additional District Court, Kallakurichi is transferred to the file of the District Court, Cuddalore, no prejudice would be caused to the respondents.

3.Opposing the above prayer, learned counsel appearing for the fourth respondent, one of the brothers of the petitioner, would submit that other defendants have cross examined the P.W.1 and the petitioner, who is the first defendant alone has to cross examine him. At this stage, only to protract the matter, the petitioner has come to this Court seeking transfer and therefore, the same cannot be accepted.

4.I fully agree with the submission made by the learned counsel appearing for the fourth respondent. Firstly, after completion of cross examination by all other defendants, the petitioner, being the first defendant has to cross examine the P.W.1. Secondly, the proof affidavit also has been filed. Therefore, this is not a fit case for transfer. Accordingly, the petition is dismissed. No costs. Consequently, C.M.P. No.14887 of 2019 is also dismissed.

5.Since the matter is of the year 2016, the Trial Court is directed to dispose of the same expeditiously, on merits, without granting any unnecessary adjournments. The parties are directed to co-operate with the early disposal.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vga

To

1.The Judge, The III Additional District Court,
Kallakurichi.

2.The Judge, The District Court, Cuddalore.

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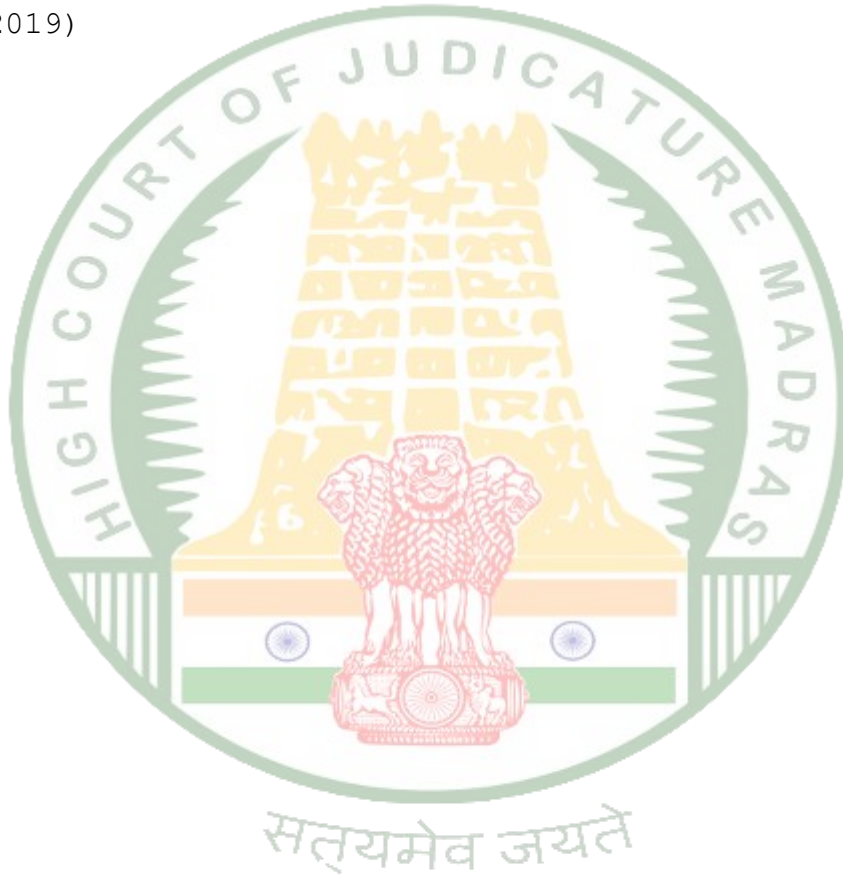
+lcc to Mr.D.Balachandran, Advocate SR.73875

+lcc to Ms.R.Poornima, Advocate SR.74263/19

+lcc to Mr.E.Sathya Raj, Advocate SR.74466/19

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VGI (CO)
CB(14/10/2019)



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