

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2019

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR.CMP.No. 628 of 2019
and
C.M.P.No. 18121 of 2019

1.B.Srihariharan
2.V.Ramasamy
3.D.Ramkumar

...Petitioners

Vs

1.K.Dinesh Kumar
2.Sri Venkateswara Theatre
A Partnership Firm rep. By its Partnership
Mr.V.Ramasamy
3.B.Jamunarani
4.R.Janakarajan
5.B.Saroja
6.N.Duraikkannu @ N.Duraikannan
7.R.Suganya Devi
8.D.Ranganathan
9.E.Duraiselvan
10.R.Anusuya
11.P.Sarathpandian
12.V.Saravanan
13.S.Sathya
14.D.Kishore
15.A.Azhagappan
16.The Station House Officer,
Pulivalam Police Station,
Pulivalam.
17.The Deputy Superintendent of Police,
Thuraiyur Division
18.The Sub Registrar, Ariyalur
19.The District Registrar, Ariyalur
20.The Deputy Inspector General,
Registration Department, Trichy.

...Respondents

Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw and transfer O.S.No.66 of 2019, on the file of Hon'ble District Munsif, Thuraiyur to be tried along with O.S.No.70 of 2019 on the file of the Hon'ble District Judge, Erode.

For Petitioner : Mr.K.Sandhya

For Respondents : Mr.B.R.Sankaralingam for R1 R2-Left

Mr.T.M.Pappiah,
Special Government Pleader for R18 to R20

Mr.S.Jaganathan,
Government Advocate (CS) for R16 & R17

Not Ready in Notice for R8, R12 & R13

R1, R3, R5 to R7, R10, R14, R19 served
No Apl

J U D G M E N T

The three petitioners are defendants in the suit filed by the first respondent herein in O.S.No. 66 of 2019 on the file of the District Munsif, Thuraiyur to be tried along with the O.S.No.70 of 2019 pending before the District Judge, Erode.

2. The learned counsel for the petitioners submit that the petitioners are the partners of Sri Venkateshwara Theatre. The first petitioner has filed a Transfer Civil Miscellaneous Petition as the first respondent had filed a Suit in O.S.No.66 of 2019 before the District Munsif, Thuraiyur against these petitioners as well as some other persons, who are defendants, seeking to declare the sale deeds and non-traceable certificate as null and void and they are binding on him and the father of the first petitioner herein had borrowed several lakhs of amount from the first respondent and for that his father had handed over the original title deeds dated 28.03.1984 and 29.03.1984 bearing document Nos.856 of 1984 and 869 of 1984 and create a deposit of title deed and after the death of his father, suppressing the facts, they were executed the sale deed in favour of the respondents 6 to 8, after tracing the non traceable certificate from the 19th respondent, though the original title deeds were in custody of the first respondent. The first respondent had also filed another suit in O.S.No.70 of 2019 before the District Judge, Erode for recovery of sum of Rs.25,42,000/- along with interest and few of the parties are same in the earlier suit, filed by the first respondent for the same cause of action. The parties of suit are same, the properties mentioned in the schedule are same, the cause of action is also one of the same and filing of the two suits in two different Courts will end up in a conflicting orders being passed and also oral and documentary evidence will be produced in the two suits and the issues are to be tried as common one and hence they pray for withdrawing the said suit before the District Munsif Court,

Thuraiyur in O.S.No.66 of 2019 and transfer the same to the District Court, Erode along with O.S.No.70 of 2019.

3. The learned counsel for the respondents submits that the respondent who is the plaintiff in the main suit have stated that he has no objection and if the suits are tried together, it will be convenient for him also. It is also seen from the averments that since both the parties are common persons and issues to be tried are the same property and in order to avoid conflicting orders being passed and also to save the time, there can be a joint trial on both the suits.

4. Hence, this Court is inclined to transfer the suit pending before the District Munsif Court, Thuraiyur to the District Judge, Erode, to be tried together in joint trial.

5. Accordingly, the transfer Civil Miscellaneous Petition stands allowed. No costs. Consequently, connected miscellaneous petition stands closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pns
To

1.The District Judge, Erode.

2.The District Munsif, Thuraiyur.

+lcc to M/s. Sarvabhauman Associates, Advocate SR.92240
+lcc to Mr.B.R.Sankaralingam, Advocate SR.91938
+lcc to the Government Pleader SR.93069
+lcc to Spl Government Pleader(CO-OP), SR.92696

TR.CMP.No.628 of 2019
and
C.M.P.No. 18121 of 2019

PP(CO)
CB(03/12/2019)