

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.11.2019
CORAM:
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR.CMP.No. 634 of 2019
and
CMP.No.18409 of 2019

Mrs.Inthumathi ...Petitioner/Defendant 2
..Vs..

1.Bommi
2.Mallika
3.Maragatham
4.Murugammal
5.M.Rajesh
6.M.Geetha
7.P.Elumalai
8.Sona Bai (deceased)
9.Murthy
10.R.Meena
11.Kousalya
12.S.Usha
13.M.C.Ramesh
14.S.Jayanthi
15.N.Vimala
16.M.C.Mugundan
17.V.Pavithra

...Respondents

Prayer:- Transfer Civil Miscellaneous Petitions filed under Section 24 of C.P.C., to withdraw the suit O.S.No. 13012 of 2009 on the file of the IV-Additional District Judge, Ponneri to any one of the Additional Judge, City Civil Court, Chennai or any other District Court.

For Petitioner : Mr.D.Veerasekharan

For Respondents : Mrs.I.Navaneetha Rani

J U D G M E N T

The petitioner, who is a defendant in O.S.No.13012 of 2009, pending before the IV Additional District Judge, Ponneri has sought for withdraw and transfer the case in O.S.No.13012 of 2019 to any one of the Additional Judge, City Civil Court, Chennai.

2. The learned counsel for the petitioner submits that originally the respondents 1 to 7 herein, who are the plaintiffs had filed a suit against the petitioner and respondents 8 to 17 seeking permanent injunction restraining the respondents 8 to 17 from interfering with the plaintiffs' peaceful possession and enjoyment of the suit property.

3. The pleadings of the said suit completed in the year 2014. The respondents/plaintiffs had filed the proof affidavit in the year 2017 and the supporting documents were marked in the year 2019 and the injunction petitions filed in the suit are pending from 2013 onwards and the same has not been disposed of. This apart, the respondents/plaintiffs had also filed another suit in O.S.No.244 of 2008 praying for permanent injunction against the petitioner and two others regarding the same property before the Judicial Magistrate-cum-District Munsif, Thiruvottiyur raising various facts before the said Court stating that they are the owners of the suit property. Hence, earlier the defendants had filed a transfer petition in Tr.CMP.No.167 of 2009 to withdraw the suit in O.S.No.244 of 2008 pending trial on the file of the District Munsif-cum-Judicial Magistrate, Tiruvottiyur and transfer it to the City Civil Court, Chennai as the parties are residing within the Chennai City limit and most of the respondents had no objection in transferring the said suit to the City Civil court. Hence, the said suit was transferred and renumbered as O.S.No.13012 of 2009 before the XV Assistant City Civil Court, Chennai. Subsequent to the same, the legal heirs of one Chockalingam Naicker, who are the relatives of the plaintiff in O.S.No.13012 of 2009 filed another suit in O.S.No.201 of 2013 before the IV Additional District Court, Ponneri against petitioner herein and others praying for permanent injunction and not to disturb their peaceful possession and injunction restraining the Sub-Registrar not to register the subject suit property pending disposal of the suit.

4. The learned counsel for the petitioner also submits that the petitioner is a old aged person who is also a sick person and cannot travel to different Courts. The subject matter of the suits are same, hence she filed transfer petition in Tr.C.M.P.No.246 of 2015 before this Court for transfer and the same was dismissed but at the same time withdraw the suit in O.S.No.13021 of 2009 on the file of the XV Assistant City Civil Court, Chennai to the Additional District judge, Ponneri where O.S.No.201 of 2013 is pending and directed the Court to club the two suits for joint trial. But even though the Court has directed to take up the matter for joint trial for the past 11

years, there is no progress in the said suit and not speedy trial was conducted.

The trial is pending before the IV Additional District Judge, Ponneri for the past four years and no joint trial as well as expedite trial has been done by the said Court. Hence they seek for transfer the suits pending before the IV Additional District Judge in O.S.No.201 of 2013 and other suit in O.S.No.13012 of 2009 to any one of the Additional Judge, City Civil Court, Chennai.

5. After hearing the parties, it was found that the suits are pending before the said Court and they could not expedite the trial now. The condone delay applications filed to set aside the order for abatement caused by the death of the 6th respondent filed by the plaintiffs are also pending in O.S.No.13012 of 2009 and the petition was filed to implead the legal representatives of the first defendant is also pending.

6. A memo was filed by the defendant No.5, the petitioner herein, stating that the defendants in the suits have no objection to allow the petition for condoning the delay of 299 days in filing the petition to set aside the order of abatement in O.S.No.201/2013 and they have also stated their no objection to allow the petition to set aside the order of abatement of the said suit. Further they also say no objection to allow the petition filed for implead the legal representatives of the 6th defendant.

7. Now the counsels appearing for both the parties submitted that all the petitions have been allowed as the defendants have no objection for the same and the matter has to be taken up for trial. The IV Additional District Court, Ponneri sent a report on 30.09.2019 stating that the Court needs some more time to dispose of the said suit and seeks for extension of time.

8. Therefore, this Court is inclined to extend the time for disposal of the said suits initiated by the parties by three months and the same to be disposed of within a period of three months from the date of receipt of the copy of this order and the parties are directed to co-operate the day-to-day proceedings and no adjournments can be taken for unnecessary reasons and the parties are directed to follow the directions issued by this Court to maintain peace and harmony between the parties in the Court premises.

9. Accordingly, the Transfer Civil Miscellaneous Petition

stands disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

pns
To

1. IV-Additional District Judge, Ponneri
 - 2.The Additional Judge City Civil Court, Chennai
- +1 cc to Mr.D.Veerasekaran Advocate sr92422

TR.CMP.Nos.634 of 2019

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