

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

C.R.P.(PD)No.2929 of 2019 and
C.M.P.Nos.18964 of 2019

M.Krishnasamy

... Petitioner

Vs.

K.Elavarasan

... Respondent

Prayer: Petition filed under Article 227 of the Constitution of India praying to call for the records of the lower Court and set aside the fair and decretal order dated 25.06.2019 in Transfer O.P.No.121 of 2018 on the file of the Principal District Judge, Cuddalore in O.S.No.101 of 2018 on the file of the Principal Subordinate Judge, Neyveli.

For Petitioner : Mr.C.Selvaraj

ORDER

This civil revision petition has been filed against the fair and decretal order passed in Transfer O.P.No.121 of 2018 by the Principal District Judge, Cuddalore District, Cuddalore, by order dated 25.06.2019.

2.The said Transfer O.P. was filed by the defendant before the Principal District Judge referred to above, to transfer the suit from Sub Judge, Neyveli to Sub Judge, Vridhachalam on the ground that, the

cause of action arose to file the suit, even according to the plaintiff, is not within the jurisdiction of the Sub Court, Neyveli, but only within the jurisdiction of the Sub Court, Vridhachalam.

3.The said O.P. was rejected by the learned Principal District Judge, in the said impugned order, as referred to above. Aggrieved over the same, the present civil revision petition has been filed.

4.The learned counsel appearing for the petitioner would submit that, since the cause of action has not arisen to decide the jurisdiction of Sub Court, Neyveli, the suit should have been filed only at the Sub Court, Vridhachalam. Therefore, the defendant, in the suit, who is the petitioner herein, had filed the Transfer O.P. to transfer the suit to Sub Court, Vridhachalam, which had been rejected. Therefore, the learned counsel would urge that, the said order has to be interfered with.

5.I have heard the said submissions made by the learned counsel appearing for the petitioner and also gone through the materials placed before this Court.

6.In the cause of action portion of the suit, the plaintiff has stated the following:

"Cause of action: The defendant executed the promissory note on 26.05.2015 and the Defendant executed the Promissory note at Kolliruppu and *the defendant also resided within the jurisdiction*, of this Hon'ble Court. The cause of action arose on 26.05.2015 towards the defendant executed a promissory note in favour of the plaintiff, the limitation was completed on 25.05.2018. But the month of May 2018 was Vocational Holidays and the court is opening on 04.06.2018, since the suit is filed on 04.06.2018. Hence, the plaintiff filed the suit within time."

7.Therefore, it has been made crystal clear that, the defendant in the suit residing within the jurisdiction of the Sub Court, Neyveli.

8.Section 20 (a) of the Civil Procedure Code makes it clear that, the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually or voluntarily resides, or carries on business, or personally works for gain, the suit shall be instituted in a Court within the local limits.

9. Therefore, based on the residential address where admittedly the defendant residing which comes within the territorial jurisdiction of the Sub Court, Neyveli, the suit has been laid and therefore, the same seems to have been entertained by the Sub Court, Neyveli. This factor, in fact, has been discussed by the learned Principal District Judge, in the order impugned, at para 7, which reads thus:

"7. Heard petitioner's sides and perused the records. This Court has heard both sides and perused the records. On perusal of the records, it is observed that the petitioner is residing at No.C3, Jappaniar Street, Block-10, Neyveli – 1 which is very nearest place to Sub Court, Neyveli. The petitioner failed to state as to when and where and by whom the threat was caused to him. Further the petitioner has not produced any proof to prove his contention. The petitioner has not filed any complaint against this respondent for threatening him. In the absence of any evidence to prove the alleged threat by the respondent and considering the residential places of both parties and considering the jurisdiction of Court, it is not appropriate to transfer the case from Sub Judge, Neyveli to Sub Judge, Vridhachalam and any other Sub Court in the Cuddalore District. Therefore the reasons stated by the petitioner are not acceptable and there is no valid ground to transfer the case. Therefore as discussed above, this court is of the opinion, that the petition has no merits and deserves to be

dismissed. Accordingly, this point is answered."

10.I find no infirmity in the findings given by the learned Principal District Judge, while rejecting the Transfer O.P. of the defendant, who is the revision petitioner herein. In view of the said acceptable reason given by the learned Judge, in rejecting the OP, the order impugned, is not required to be interfered with. Accordingly, the Civil Revision Petition fails and therefore, the same is dismissed. No costs.

04.09.2019

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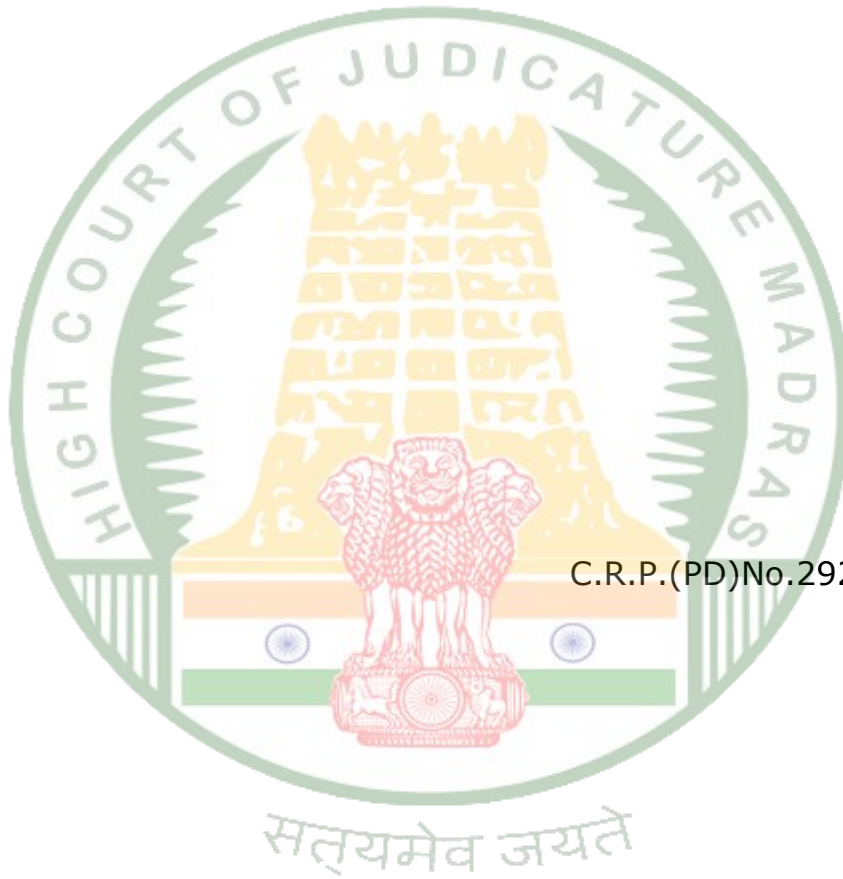
- 1.The Principal District Judge,
Cuddalore.
- 2.The Principal Subordinate Judge,
Neyveli.

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R.SURESH KUMAR, J.

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