

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.11.2019

Coram

THE HON'BLE MRS. JUSTICE BHAVANI SUBBAROYAN

Tr.C.M.P.No.760 of 2019

and

C.M.P.No.21258 of 2019

1. L.Velayudham
2. L.Gowthaman
3. L.Munusamy
4. L.Dhinakaran
5. Bakkiyarathi

....Petitioners/Defendants 1 to 5

Vs.

1. M.Paranthaman
2. P.Dhavaselvam
3. P.Kalaichelvan
4. N.Sridevi
5. The Sub Registrar,
Ambattur Sub Registrar Office,
Ambattur, Chennai-53.
6. The Tahsildar,
Madhavaram Taluk,
Madhavaram.
7. The District Collector,
Thiruvallur District.

....Respondents

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 151 of C.P.C., to withdraw the suit in O.S.No.96 of 2018 pending on the file of the learned First Additional District Judge, Thiruvallur and transfer the same to the learned IV Additional District Judge, Ponneri.

For Petitioners : Mr.B.Murugavel

For Respondents : Mr.K.Balaji - For R1 to R3

Mr.S.Jaganathan - For R6 & R7

Government Advocate (C.S.)

Mr.T.M.Pappiah - For R5

Special Govt. Pleader

O R D E R

This Transfer Civil Miscellaneous Petition has been filed by the petitioner seeking to withdraw the suit in O.S.No.96 of 2018 pending on the file of the learned First Additional

District Judge, Thiruvallur and transfer the same to the file of the learned IV Additional District Judge, Ponneri.

2. The case of the petitioners is that the petitioners are the defendants 1 to 5 in O.S.No.96 of 2018. The respondents 1 to 3 herein have filed the suit in O.S.No.96 of 2018 before the learned First Additional District Judge, Thiruvallur, for the relief of declaration and consequential injunction and also for various other reliefs in respect of the property i.e. Grama Natham site measuring 3924 comprising Old Survey No.2, New Survey No.2/6 at Puthagaram Village, Madhavaram Taluk, Thiruvallur District. After the filing of the above said suit, the petitioners herein have entered appearance through their counsel in the said suit and filed written statement, stating that the suit in O.S.No.96 of 2018 is pending on the file of the Principal District Judge, Thiruvallur and the same shall be transferred to the file of the learned IV Additional District Judge, Ponneri. But the learned District Judge, Thiruvallur has transferred the case to the file of the learned I Additional District Judge, Thiruvallur. Hence, the petitioners have filed the transfer civil miscellaneous petition before this Court.

3. The learned counsel for the petitioners would submit that the plaintiffs, the defendants 1 to 4 and the 5th defendant are residing within the jurisdiction of the learned IV Additional District Judge, Ponneri. The learned counsel would further submit that the subject matter of the property being Grama Natham site measuring 3924 comprising old survey No.2, New Survey No.2/6 at Puthagaram Village, Madhavaram, Taluk, Thiruvallur District i.e. the suit property is also situated within the territorial Jurisdiction of the learned IV Additional District Judge, Ponneri. Further, the learned counsel for the petitioners would submit that the second petitioner viz., L.Gowthaman, who used to attend the Court, suffering from Chronic Diabetics. If the case is transferred to the learned IV Additional District Court, Ponneri, it would be convenient to the petitioners to attend the Court proceedings. Hence, the learned counsel prays to allow this petition.

4. The learned counsel appearing for the respondents 1 to 4 would submit that the respondent have no objection to transfer the above suit to the file of the learned IV Additional District Court, Ponneri.

5. The learned counsel appearing for the respondents 5 to 7 would submit that they have also no objection to transfer the above suit to the file of the learned IV Additional District Court, Ponneri.

6. Heard the learned counsel for the petitioners as well as

the respondents and also perused the materials available on record.

7. It is seen from the records that the petitioners and the respondents are living in Madhavaram, Ponneri and the suit property is also situated within the said jurisdiction.

8. Considering the convenience of both the parties and the fact that the respondents have no objection, this Court is inclined to withdraw the suit in O.S.No.96 of 2018 on the file of the learned I Additional District Judge, Thiruvallur and transfer the same to the file of the learned IV Additional District Judge, Ponneri.

9. Accordingly, the suit in O.S.No.96 of 2018 on the file of the learned I Additional District Judge, Thiruvallur is withdrawn and transferred to the file of the learned IV Additional District Judge, Ponneri.

10. The learned First Additional District Judge, Thiruvallur has sent a letter dated 22.11.2019 to the Registrar, wherein it is stated that the order of this Court dated 25.10.2019 in Tr.C.M.P.No.760 of 2019 has received by the said Court on 18.11.2019. By order dated 25.10.2019, this Court had directed the Registry to call for the records from the lower Court for verifying the jurisdiction of the said Courts to try the said suit in O.S.No.96 of 2018. This Court is further directed that no further proceedings shall be conducted in any of the Courts.

11. The learned First Additional District Judge, Thiruvallur, in her letter, stated that on 18.11.2019, the evidence on the side of the plaintiff was closed. On that day, the defendant was not present and the learned Judge was posted the case on 13.12.2019 for arguments. The learned First Additional District Judge, Thiruvallur has stated that the order of the High Court, dated 25.10.2019, is not come to her notice.

12. Now, the case is transferred to the file of the learned IV Additional District Judge, Ponneri. The said Judge is directed to continue the proceedings in O.S.No.96 of 2018 and dispose of the suit as early as possible.

13. The Registry is directed to send all the original bundles relating to the suit in O.S.No.96 of 2018 to the learned I Additional District Judge, Thiruvallur within a period of two weeks from the date of receipt of a copy of this order, by a Special Messenger.

14. With the above directions, the Transfer Civil

Miscellaneous Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

To

1. The First Additional District Judge,
Thiruvallur.

2. The IV Additional District Judge,
Ponneri.

Copy To

The Section Officer,
V.R. Section, High Court,
Madras.

(Send the Records as per the
direction in the Judgment)

+1cc to Mr.B.Murugavel, Advocate, S.R.No. 99159
+1cc to Mr.K.Balaji, Advocate, S.R.No. 99771
+1cc to the Government Pleader, S.R.No. 100438

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RSI (CO)
GN(27/01/2020)

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