

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.01.2019

Coram

THE HON'BLE MR. JUSTICE R. PONGIAPPAN

Tr. C.M.P. No.1067 of 2017
and
CMP.No.21995 of 2017

M. Murugan

Petitioner

Vs

1. Kavitha
2. Aruchamy

Respondents

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw MCOP No.469 of 2013 from the file of Special Subordinate Court for MCOP Cases, Coimbatore and to transfer the same to any one of the Court nearby District i.e Hosur or Tiruppur.

For Petitioner : Ms. P. Gomathi for M.Udhaya Bhanu

For Respondents : No appearance

O R D E R

The Petitioner herein is the 1st respondent in MCOP No.469 of 2013 pending on the file of Special Subordinate Court for MCOP Cases, Coimbatore. This application has been filed for the relief to withdraw the above said case from the file of Special Subordinate Court for MCOP Cases, Coimbatore and to transfer the same to any one of the Court nearby District ie Hosur or Tiruppur.

2. As per averment made in the petition that on 11.07.2006 a case has been registered in Cr.No.114 of 2006 against the petitioner herein, by the Sub-Inspector of Police, Thondamuthur Police Station, for the offences punishable under Sections 279, 337 of IPC. As per the said First Information Report, the fact of the case is, on 10.07.2006 at about 6.00 am, the petitioner herein drove a Lorry bearing Reg.No. TDV 5578 and

dashed against one Rajammal, who was standing nearby Water tank situated at Thondamuthur to Narasipuram Road. Immediately after the accident, the injured Rajammal was admitted in Government Hospital and inspite of treatment given to her, she died on 26.12.2006. Subsequently, the legal heirs of the deceased Rajammal, namely Kavitha and Aruchamy, who are the daughter and husband of the deceased have filed the Claim petition and claiming compensation of Rs.10,00,000/-. As of now, the said case is pending with the Special Subordinate Court for MCOP Cases, Coimbatore in MCOP No.469 of 2013. In the said circumstances, the petitioner herein, who is the 1st respondent in the above said MCOP case has approached this Court for the relief stated in the 1st Paragraph of this Order.

3. The sole ground raised by the petitioner in this application is the Counsel who is appearing for the respondent Mr. Kadir Vadivel is the friend of Special Judge, who presided over the Court, in which the petition mentioned MCOP was pending. Further, during the course of trial proceedings, the Special Judge refused to afford proper opportunity to the respondent for examining the witnesses and for producing the documents. Further, the learned Counsel for the petitioner submitted that, if the case is continued in the same Court, the petitioner will not get fair justice.

4. Now, on going through the facts and circumstances, it reveals that the claim application has been filed by the 1st and 2nd respondents in the year of 2013. Further, in the claim application, this petitioner and one M. Murugan, who is the owner of the offending vehicle are added as 1st and 2nd respondents. The above application has been pending with the said Court from the year of 2013 onwards. In the said circumstances, after the lapse of 4 years, this application has been filed before this Court for the relief stated supra.

5. In this case, it is the contention of the petitioner that the learned Special Judge, Special Subordinate Court for MCOP Cases, Coimbatore has not afford any proper opportunity for examination of the witnesses on his side and posted the case for arguments. No doubt, refusing to give opportunity to produce the witnesses to either side, may create a reasonable apprehension against the Court, in which the case was pending. But, in this case, in order to show his contention, the notes paper which was written by the Presiding Officer during the time of trial proceedings is not produced to prove his case. Accordingly, without showing the bonafide reason, the claim made by the petitioner can not be entertained. Even though, the respondent has not appeared before this Court, considering the fact that the case was pending from the year of 2013, I am of the considered opinion that mere apprehension

having by the petitioner is not a valid ground for allowing the petition and accordingly the prayer sought for by the petitioner has no merits and hence this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

vrn

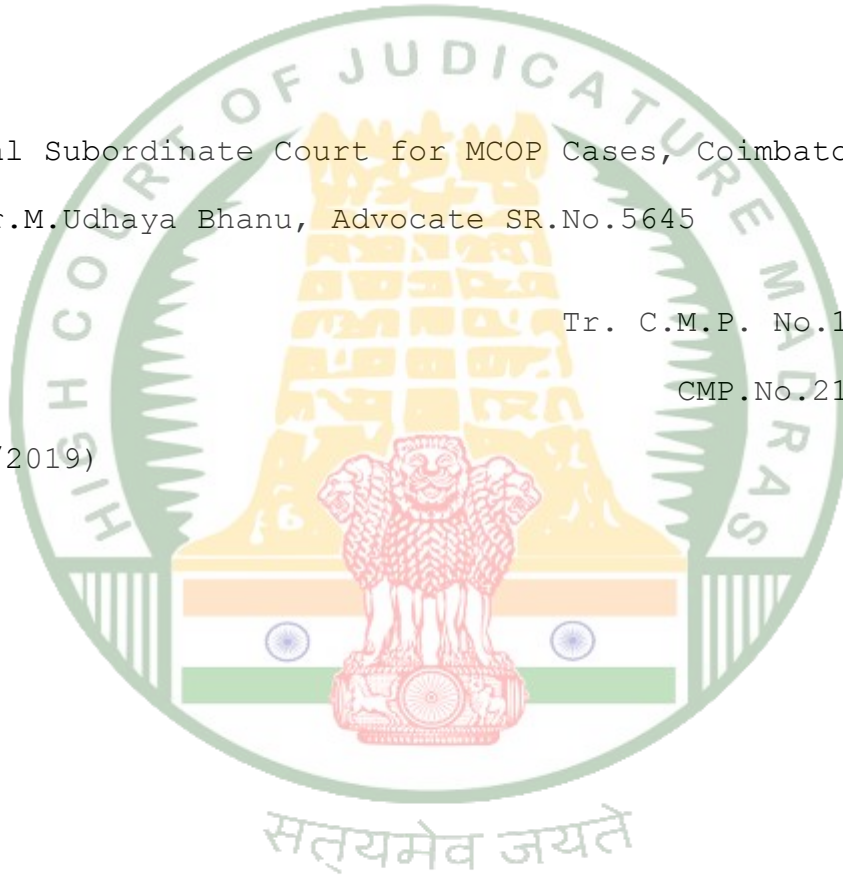
To

The Special Subordinate Court for MCOP Cases, Coimbatore

+lcc to Mr.M.Udhaya Bhanu, Advocate SR.No.5645

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GMV (15/02/2019)



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