

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

TR C.M.P. No.231 of 2017
and
C.M.P.No.4191 of 2017

Mohammed Ali

... Petitioner/1st Defendant

Vs.

1.Hayathbee

... 1st Respondent/Plaintiff

2.Shabana Begum

... Respondent/2nd Defendant

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw O.S.No.73 of 2013 on the file of Sub Court, Tindivanam and transfer the same and try the same along with O.S.No.59 of 2013 before the Hon'ble II Additional District Judge, Puducherry.

For Petitioner : Mr.D.Ravichander

For Respondents : Mr.T.Sundar Raj [for R1]

O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw O.S.No.73 of 2013 on the file of Sub Court, Tindivanam and transfer and try the same along with O.S.No.59 of 2013 before the Hon'ble II Additional District Judge, Puducherry.

2. The petitioner filed a suit in OS.No.59 of 2013 before the learned II Additional District Judge, Puducherry for partition. The major portion of the property situated in Tamil Nadu. The respondents filed a suit in OS.No.73 of 2013 for declaration of title before the Sub Court, Tindivanam. Now the petitioner is before this Court seeking transfer of the case in O.S.No.73 of 2013 to be tried along with O.S.No.59 of 2013 on the file of the II Additional District Judge, Puducherry, to avoid multiplicity of proceedings.

3. From the suit schedule, it is seen that the major portion of the property which the petitioner claims possession, lies within the jurisdiction of the Principal Sub Court, Tindivanam. The suit in OS.No.73 of 2013 filed by the respondents is for declaration of title in respect of the property situated in the jurisdiction of Tindivanam Court. The suit filed by the respondents cannot be transferred to Puducherry. On the other hand, the suit in OS.No.59 of 2013 filed by the petitioner may be transferred to Tindivanam for trying it along with other suit filed by the respondents.

4. To avoid multiplicity of proceeding, the suit filed by the petitioner in OS.No.59 of 2013 pending on the file of II Additional District Judge, Puducherry is withdrawn and transferred to the file of learned Principal Sub Judge, Tindivanam to be tried along with O.S.No.73 of 2017. The learned Sub Judge, Tindivanam will take a decision with regard to trying the cases jointly or simultaneously. The direction is issued to the Principal Sub Judge, Tindivanam to complete the trial as expeditiously as possible.

5. The Transfer Civil Miscellaneous Petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The II Additional District Judge,
Puducherry.

2.The Subordinate Judge,
Tindivanam.

+1cc to Mr.D.Ravichander, Advocate sr.25488(01/08/2019)

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sj(co)
nr 12/06/2019