

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

TR.C.M.P.NOS.921 AND 922 OF 2018

AND

C.M.P.NOS.22760 AND 22822 OF 2018

A/m.Asala Guru Punithapu Subramania
Swamigal Mutt, Neelamangalam Village,
Maduranthakam Taluk,
Rep.by its Manager and
Executive Officer A/M.Kothandarramasamy Temple,
Maduranthakam,
Kancheepuram District.

... Petitioner in both the
petitions

Vs.

- 1.T.I.Rayappa
- 2.T.I.Iruthayaraj
- 3.M.Ramesh
- 4.Dayalan

... Respondent in
Tr.Cmp.No.921 of 2018

1. T.I.Rayappa
2. T.I.Iruthayaraj
3. The Commissioner,
Hindu Religious and Charitable Endowment Board,
Office of HR & CE, Nungambakkam High Road,
Chennai - 34.

4. M.Ramesh

... Respondent in
Tr.Cmp.No.922 of 2018

COMMON PRAYER:

Transfer Civil Miscellaneous Petitions filed under Section 24 of C.P.C., to withdraw the suit O.S.Nos.77 and 163 of 2011 pending on the file of the District Munsif Court, Thiruvallore and transfer the same to the District Munsif Court, Maduranthakam to be tried along with O.S.No.3 of 2008 pending on the file of the District Munsif Court, Maduranthakam, respectively.

For Petitioner
In both the petition : Mr.K.Hariharan

For Respondent
In both the petition : Mr.N.Nagusah [for R1]

R2 - Served - No Appearance

COMMON ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the suits in O.S.Nos.77 and 163 of 2011 pending on the file of the District Munsif Court, Thiruvallur and transfer the same to the file of District Munsif Court, Maduranthakam to be tried along with O.S.No.3 of 2008 pending on the file of the District Munsif Court, Maduranthakam.

2. The petitioner is the trust. The petitioner filed a suit for declaration of title and for consequential injunction in respect of 24 items of the property before the District Munsif Court, Mathuranthakam. The respondents 1 and 2 purchased item nos.1 to 3 from the defendants 1 to 4 in OS.No.3 of 2008. The respondents 1 and 2 filed a transfer civil miscellaneous petition to transfer the O.S.No.3 of 2008 pending on the file of District Munsif Court, Maduranthakam to the file of District Munsif Court, Tiruvallur to be tried along with Tr.Cmp.No.161 of 2008. Thereafter, they withdrew the Transfer Civil Miscellaneous Petition. Again they filed another Interlocutory Application to reject the plaint under Order 2 Rule 2 CPC which also did not yield any result. After that, the respondents 1 and 2 filed another Interlocutory Application questioning the territorial jurisdiction of District Munsif Court, Madurantakam to try the property which are lying within the jurisdiction of District Munsif Court, Thiruvallur. In the meanwhile, they also filed O.S.No.77 of 2011 for bare injunction restraining the present petitioner as well as two others and the respondents 3 and 4 from interfering with their possession. They also filed a suit in OS.No.163 of 2011 against the present petitioner, the Commissioner HR & CE and the 3rd respondent herein for declaration that the ex-parte decree dated 23.02.1989 passed in O.S.No.249 of 1988 and for declaration that the order dated 27.10.1964 passed in O.A.No.2 of 1963 by the Commissioner HR & CE in respect of the scheme for the administration of the petitioner mutt as inoperative and not binding on them. From the above suits, it is very clear that the title vests with the mutt and the possession of properties is with the mutt. The District Munsif Court, Mathuranthagam by its order dated 24.07.2017 has held that it has territorial jurisdiction to try the suit item nos.1 to 3 (OS.No.3 of 2008) of the property situated at

Thiruvallur district while deciding the preliminary issue. Against that order, the present respondents 1 and 2 preferred a Civil Revision Petition before this Court which is pending in C.R.P.No.2799 of 2018.

3. The petitioner mutt has now prefers the above transfer civil miscellaneous petition to transfer the suits pending before the District Munsif Court, Thiruvallur to the file of District Munsif Court, Mathuranthakam.

4. I heard the submissions made by the learned counsel on both sides.

5. It is true that the subject matter of all the three suits is for declaration of the title of the petitioner mutt. The suit pending before the District Munsif Court, Tiruvallur is for bare injunction and for declaration that the decree passed by the Competent Court as inoperative and not enforceable. But the suit pending before District Munsif Court, Mathuranthakam is for declaration of title in respect of 24 items of the property which includes item 1 to 3, to which the respondents 1 and 2 claim title. When the issue of the three suits is directly a substantial issue in respect of the title of the petitioner mutt and the properties are situated in various places, as per Section 17 of C.P.C, the suit can be instituted in the proper limits of whose jurisdiction any portion of the property is situated. In the instant case, majority of the property viz., item nos. 4 to 24, are situated within the jurisdiction of the District Munsif Court, Mathuranthakam. The petitioner is a trust and claims declaration of title in respect of all the properties including the suit property. Therefore, when Mathuranthakam Court has the jurisdiction to decide the substantial issue and in order to avoid multiplicity of proceedings it is always better to try all the suits in one Court.

6. Considering the above facts and circumstances, this Court, in the interest of justice is inclined to transfer O.S.Nos.77 and 163 of 2011 pending on the file of District Munsif Court, Thiruvallur to be tried along with O.S.No.3 of 2008 on the file of District Munsif Court, Mathuranthakam. However, the order of transfer will be subject to the result of Civil Revision Petition in C.R.P.No.2779 of 2018 pending before District Munsif Court, Mathuranthakam.

7. Accordingly, O.S.Nos.77 and 163 of 2011 pending on the file of District Munsif Court, Tiruvallur are withdrawn and transferred to the file of District Munsif Court, Mathuranthakam to be tried along with O.S.No.3 of 2008. In the event of C.R.P.No.2799 of 2018 being allowed all the three suits can be tried before the Court which has jurisdiction.

8. For the present, the District Munsif Court, Tiruvallur is directed to transfer both the suits forthwith to District Munsif Court, Mathuranthakam. On receipt of bundles, the District Munsif Court, Mathuranthakam is directed to issue notice to the parties and dispose of the same within a period of three months from the date of receipt of a copy of this order.

9. The Transfer Civil Miscellaneous Petitions are disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

bri

To

1. The District Munsif,
Tiruvallur.
2. The District Munsif,
Mathuranthakam.

+1cc to Mr.K.Hariharan, Advocate, S.R.No.30616

+2cc to Mr.N.Nagusah, Advocate, S.R.No.30431

TR.C.M.P.Nos.921 and 922 of 2018
and

C.M.P.Nos.22760 and 22822 of 2018

EV(CO)

CS/13/06/2019

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