

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.02.2019

C O R A M
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

TR C.M.P. No.879 of 2018
and
C.M.P.No.21690 of 2018

Appusamy

... Petitioner/Defendant

Vs.

Senthilkumar

... Respondent/Plaintiff

PRAYER: Transfer Civil Miscellaneous Petition filed under section 24 of C.P.C., to withdraw the suit in O.S.No.208 of 2018 on the file of the learned Fast Track Mahila Court, Namakkal District and transfer the same to the file of any District Court at Tirupur.

For Petitioner : Mr.K.Vignesh Karthick

For Respondent : S.Senthil

O R D E R

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the suit in O.S.No.208 of 2018 pending on the file of the learned Fast Track Mahila Court, Namakkal District to the file of any District Court at Tirupur.

2. The petitioner is a Doctor by profession, aged 72 years and he is running educational institutions at Tirupur District. There are certain financial transactions between the petitioner and the respondent.

3. It is the case of the petitioner that he agreed to sell a portion of land to the respondent and received an advance of Rs.40,00,000/-. The respondent, for security purposes obtained a promissory note from him. This is a civil dispute but the respondent has sought the services of police for recovery of money. Therefore, the petitioner was constrained to approach this Court by way of Criminal Original petition for protection. This Court by an order dated 20.11.2017 in CrI.OP.No.24979 of 2017 has instructed the Police officials not to harass the petitioner during enquiry. Thereafter the respondent has filed a suit in OS.No.208 of 2018 for recovery of money. Now the petitioner is before this Court seeking transfer of the suit in

O.S.No.208 of 2018 on the file of the learned Fast Track Mahila Court, Namakkal District, to the file of any District Court at Tiruppur, on the ground that he is harassed by police and threatened by the respondent. Further he cannot travel 120 kms to attend the case on health grounds.

4. Admittedly, the suit is for recovery of money. The petitioner need not be present for each and every hearing. The presence, at the most, is required during his examination, when he is examined as a witness. On a perusal of entire records, this Court is unable to see any threat as alleged by the petitioner from the side of the respondent. Further statement made in the petition that the petitioner is running several educational institutions reveals the fact that he will be travelling for the purpose of day-to-day affairs of the educational institutions. Therefore the ground that he faces threat and he is an aged person and he cannot travel on health grounds are not sustainable. Since the presence of the petitioner is not required for every hearing, this Court is not inclined to transfer as there is no valid ground for transfer is made out.

5. Accordingly, Transfer Civil Miscellaneous Petition is dismissed. Considering the age of the petitioner, the learned Fast Track Mahila Court, Namakkal District is directed to expedite the proceeding and the respondent is also directed to cooperate for speedy disposal of the case. The presence of the petitioner is dispensed with except for the trial. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

//True Copy//

Sub Assistant Registrar

bri

To

The Fast Track Mahila Court,
Namakkal.

+1cc to Mr.S.Senthil, Advocate, S.R.No.14181

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SSD (CO)

RRS (02/04/2019)