



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.06.2019

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

T.R.C.M.P. (MD) Nos.117 and 118 of 2019  
and

C.M.P. (MD) Nos.2526 and 2527 of 2019

**T.R.C.M.P. (MD) No.117 of 2019:-**

Muralidharan

:Petitioner

vs.

1. V.Sivasankari
2. P.Solaiammal
3. Kulandaivelu
4. Gnanasundari
5. Karthikeyan
6. M.Umamaheswari
7. Gowri  
K.Senthilkumar (Died)
8. A.Karthikeyan
9. D.Nagarajan
10. K.Manoharan
11. Nallusamy
12. A.Vasntha
13. K.Thangammal
14. K.Krishnaveni
15. Kiruthika

:Respondents

**PRAYER:** Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw E.P.No.5 of 2018 in O.S.No.20 of 2008 on the file of the I Additional District Court (PCR Cases), Thanjavur and transfer the same to any other District Court in the nearby districts.

|                                     |                       |
|-------------------------------------|-----------------------|
| For Petitioner                      | : Mr.D.Ramkumar       |
| For R2                              | : Mr.P.Vadivel        |
| For R11                             | : Mr.V.Chandrasekaran |
| For R1, R3 to R10<br>and R12 to R15 | : No appearance       |

**T.R.C.M.P. (MD)No.118 of 2019:-**

Muralidharan

:Petitioner

vs.

1. Kulandaivelu
2. V.Sivasankari
3. K.Karthikeyan
4. M.Umamaheswari
5. K.Gowri

:Respondents

**PRAYER:** Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw O.S.No.15 of 2012 on the file of the I Additional District Court (PCR Cases), Thanjavur and transfer the same to any other District Court in the nearby districts.

For Petitioner : Mr.Ramkumar  
For R2 : Mr.P.Vadivel  
For R1, R3 to R5 : No appearance  
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**COMMON ORDER**

T.R.C.M.P.(MD)No.117 of 2019 is filed to withdraw the proceedings in E.P.No.5 of 2018 in O.S.No.20 of 2008 pending on the file of the I Additional District Court (PCR cases), Thanjavur and transfer the same to any other District Court in nearby district.

2.T.R.C.M.P.(MD)No.118 of 2019 is filed to withdraw the proceedings in O.S.No.15 of 2012 pending on the file of the I Additional District Court, Thanjavur, and to transfer the same to any other District Court.

3.The petitioner is the plaintiff in O.S.No.15 of 2012 on the file of the I Additional District Court, (PCR Cases) Thanjavur, which was filed for specific performance of agreement of sale, that was entered into between the petitioner and the first respondent in T.R.C.M.P.(MD)No.117 of 2019.

4.It is not in dispute that the subject matter of the suit property in O.S.No.15 of 2012 is also the subject matter of the suit in O.S.No.20 of 2008, on the file of the Principal Subordinate Court, Thanjavur, which was filed for partition, wherein, a compromise decree has been passed granting specific shares to parties. The petitioner, namely, the agreement holder, is not a party to the suit for partition. However, it is stated that the compromise decree was passed after the sale agreement. Merely because, the petitioner has some interest that does not mean that he can insist the matter to be transferred to a place, where he wants to contest or defend.



5.The only ground alleged in these petitions is that the Principal Subordinate Court, Thanjavur, has granted a decree in the partition suit, pursuant to the compromise and that one of the parties in the suit is a practicing Advocate. The allegation of this nature can not be entertained in a casual manner. The petitioner seeks to transfer the proceedings from I Additional District Court, Thanjavur to any other District Court in near by District. Absolutely, there is no material produced before this Court to show that serious prejudice is likely to be caused to the parties, as one of the parties to the suit is trying to influence the learned Additional District Judge or he is capable of influencing the Court. Having regard to the settled principle of law, this Court is not inclined to entertain these petitions.

6.The petitioner has filed the suit for specific performance and admitted that he was not a party in the suit for partition. It is stated that the petitioner was impleaded as party to the proceedings in E.P.No.5 of 2018 in O.S.No.20 of 2008. It is brought to my notice that this Court, in C.R.P.(MD)No.2347 of 2016, by order dated 05.01.2017, has already passed an order directing join trial of the suit filed by the petitioner as well as the execution proceedings. On the basis of mere apprehension, this Court cannot entertain these petitions. It will be unethical and cause more inconvenience to the parties, if the transfer of proceedings is allowed. Hence, these petitions are dismissed. No costs. The I Additional District Judge (PCR Cases), Thanjavur is directed to dispose of both the proceedings in E.P.No.5 of 2010 in O.S.No.20 of 2018 and the suit in O.S.No.15 of 2012 as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

cmr

To

The I Additional District Judge (PCR Cases), Thanjavur.

+ 1 CC TO Mr.P.Vadivel, ADVOCATE IN SR No.69588

+ 1 CC TO Mr.D.Rajkumar, ADVOCATE IN SR No.69354

T.R.C.M.P. (MD) Nos.117 and 118 of 2019

17.06.2019