



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.04.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.CMP (MD) No.42 of 2019

and

CMP (MD) No.1316 of 2019

Rajakumari

... Petitioner/Respondent/Defendant

vs.

1) Leela

2) A.Rameshbabu

3) A.Punitha

4) A.Nirmal

... Respondents/Petitioners/Plaintiffs

Petition filed under Section 24 of the Civil Procedure Code, to withdraw the E.P.No.157 of 2017 in O.S.No.541 of 1998 pending on the file of Principal District Munsif Court, Tirunelveli, and to transfer the same to Principal District Munsif Court, Sankarankovil, Tirunelveli District or any other appropriate forum.

For Petitioner : Mr.R.Suresh Kumar

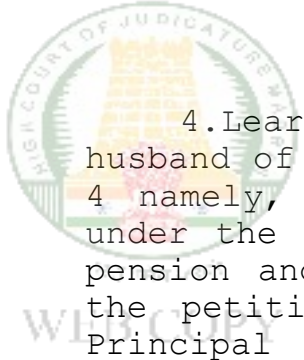
For Respondents : Mr.A.D.Ganeshamoorthi

ORDER

This petition has been filed for a direction to transfer E.P.No.157 of 2017 in O.S.No.541 of 1998 from the Principal District Munsif Court, Tirunelveli, to the Principal District Munsif Court, Sankarankovil, Tirunelveli District, or any other appropriate forum.

2.The facts of the case are that the respondents filed the above suit for declaration that they are alone entitled to all the benefits due to one Ananthan @ Ananthappan who is husband of the 1st respondent and father of the respondents 2 to 4 and for permanent injunction restraining the petitioner herein from claiming any benefits as a family member of the 1st defendant in any manner. The said suit was decreed and the decree holders filed E.P. Seeking transfer of E.P. this petition is filed by the petitioner.

3.Learned counsel for the petitioner would state that the petitioner is facing life threat in Tirunelveli, at the hands of the respondents 2 and 3 who are advocates and therefore, she seeks transfer of E.P.No.157/17 from Tirunelveli to Sankarankovil.



4. Learned counsel for the respondents 1 to 4 would submit that husband of the 1st respondent and the father of the respondents 2 to 4 namely, Ananthappan @ Ananthan is an Ex-serviceman and living under the custody of the petitioner for the past 35 years and the pension and other monetary benefits of their father is enjoyed by the petitioner. Therefore, they filed O.S.No.541/98 before the Principal District Munsif, Tirunelveli, for declaration and permanent injunction as stated above. The said suit was decreed and E.P. was filed. The petitioner did not appear in E.P, and now seeking transfer and therefore, the respondents would object for transfer.

5. On earlier occasion, to explore the possibility of settlement, this Court mediated the matter. Both parties were present. During mediation, on the side of the respondents, it was stated that Ananthan @ Ananthappan is a lunatic person. The said person was present before this Court and he would state that he is an Ex-Serviceman. On physical appearance and enquiry, this Court found that the said Ananthappan is perfectly alright and he is not lunatic as alleged by the respondents. Finding that mediation could not succeed, this Court directed to list the revision petition for arguments.

6. When the matter came up for arguments, this Court specifically posed a question to the counsel for respondents why E.P.No.157/2017 has been filed after 16 years from 2001 on which year, O.S.No.541 of 1998 was decreed, for which, learned counsel for the respondents would state that there is a violation and therefore, the EP has been filed in 2017, but what is the violation is not mentioned before this Court.

7. Be that as it may, considering the allegations and counter-allegations raised by both the parties against each other, this Court expressed its opinion that it would be appropriate to transfer the matter to some other Court at the convenience of both the parties. At that juncture, learned counsel for the respondents would state that the District Munsif Court, Srivaikundam, would be convenient for both the respondents as well as the petitioner, for which, learned counsel for the petitioner did not have any objection. Therefore, recording the submissions made on either side, this petition is allowed with the following directions:-

i) The learned Judge, Principal District Munsif Court, Tirunelveli, is directed to transmit the entire records in E.P.No.157 of 2017 in O.S.No.541 of 1998 to the file of the District Munsif Court, Srivaikundam, within a period of two weeks from the date of receipt of copy of this order.

ii) Already, there is a direction by this Court in CRP (MD)No.1062 of 2018, dated 08.10.2018 to dispose of E.P.No.157 of 2017 within three months, but due to the above allegations and counter-allegations, there had been a delay and since the matter is now ordered to be transferred at the convenience of both sides, the learned District Munsif,



Srivaikundam, is directed to dispose of E.P.No.157 of 2017 in O.S.No.541 of 1998 within a period of four months from the date of receipt of the records in E.P.

8. Accordingly, this Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

To

1) The Judge,
Principal District Munsif Court,
Tirunelveli.

2) The Judge,
District Munsif Court,
Srivaikundam.

+1 CC to M/s.A.D.GANESHA MOORTHY,
Advocate(SR-58368[F]dated 02/04/2019)

+1 CC to M/s.R.SURESH KUMAR, Advocate(SR-58815[F] dated 04/04/2019)

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02.04.2019

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