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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2019

CORAM

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

T.R.C.M.P. (MD) No.77 of 2019

and

C.M.P. (MD) No.1808 of 2019

R.Arockiasamy

...Petitioner/Defendant

Vs.

Thiraviam

...Respondent/Plaintiff

PRAYER: Transfer Civil Miscellaneous Appeal filed under Section 24 of C.P.C., to withdraw the O.S.No.37 of 2018 on the file of the District Munsif Court, Bodinayakkanur and transfer it to the file of the District Munsif Court, Tirunelveli.

For Petitioner

: Mr.T.Selvan

For Respondent

: Mr.R.Suriyanarayanan

ORDER

This Transfer Civil Miscellaneous Petition is filed with a prayer to withdraw the suit in O.S.No.37 of 2018 on the file of the District Munsif Court, Bodinayakkanur and transfer it to the file of the District Munsif Court, Tirunelveli.

2.The petitioner is the defendant in the suit in O.S.No.37 of 2018 on the file of the District Munsif Court, Bodinayakkanur and the respondent, who is the plaintiff, has filed the said suit for specific performance against the petitioner. It is the contention of the petitioner that the suit in O.S.No.37 of 2018 has been filed with a forged agreement and that the petitioner has already given a criminal complaint against the respondent in this regard.

3.Stating that the petitioner has suffered a hip injury and that he has undergone a major surgery recently, the petitioner has preferred this Transfer Civil Miscellaneous Petition purely on medical ground. It is stated that the petitioner would be put to much hardship, if he has to travel about 300 km from Tirunelveli to Bodinayakkanur to attend the case.

4.A petition for transfer of proceedings cannot be filed purely on medical ground, which is based on mere convenience. The petitioner need not attend the Court on every occasion and it is enough for the petitioner to present before the Court, when he depose as a witness. The petitioner has produced the records, namely, the discharge summary given to him on three occasions.



5. In the discharge summary, the details of the treatment given to the petitioner were given and the petitioner's inability to attend the Court to defend his case in Bodinayakkanur cannot be inferred from the documents produced before this Court.

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6. Be that as it may, the plaintiff has filed the suit for specific performance of an agreement of sale in respect of a property, which falls within the jurisdiction of District Munsif Court, Bodinayakkanur. The petitioner, who is the defendant in the suit, stated to have executed a sale agreement in a place within the jurisdiction of that Court. It is seen from the present petition that the plaintiff is originally residing at Pomminayakkanpatti, T. Meenakshipuram Village, Uthamapalayam Taluk, Theni District, and temporarily shifted to Tirunelveli.

7. In such circumstances, a suit cannot be transferred to another Court, which has no jurisdiction, merely because, it is convenient for one party. Hence, this petition is dismissed. Having regard to the fact that the suit has been filed in the year 2018 and it is pending for more than 1 year, the learned District Munsif, Bodinayakkanur is directed to expedite the trial and dispose of the suit in O.S.No.37 of 2018 within a period of six months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)

cmr

To

The District Munsif, Bodinayakkanur.

+1CC TO MR.T.SELVAN, Advocate Sr. No.66842

+1CC TO MR.R.SURIYANARAYANAN, Advocate Sr. No. 66704

T.R.C.M.P.(MD) No.77 of 2019

03.06.2019

KM(CO)

TR (14.06.2019) 2P 4C