



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 21.10.2019  
CORAM :

**THE HONOURABLE MS.JUSTICE P.T.ASHA**

**Tr.C.M.P (MD) No.260 of 2019**  
**and**  
**C.M.P. (MD) No.5970 of 2019**

1. A.Noordeen  
2. M.Varisaimiya Pillai ... Petitioners/Defendants

**Vs.**

S.Jafer Ali ... Respondent/Plaintiff

**PRAYER:** Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw O.S.No.150 of 2019, on the file of the Principal District Munsif Court, Tirunelveli and transfer the same to any other Court outside the Tirunelveli District.

For Petitioners : Mr.R.J.Karthick  
For Respondent : Mr.J.Ashok

**ORDER**

The above Transfer Civil Miscellaneous Petition is filed by the defendants to transfer the suit in O.S.No.150 of 2019, from the file of the learned District Munsif, Tirunelveli, to any other Court in Tirunelveli District. The said suit has been filed by the respondent / plaintiff, claiming damages on the ground of defamation.

2. The only grievance that has been putforward by the petitioners before this Court is that the respondent is a senior member of the Tirunelveli Bar Association and a person who has considerable influence in the Bar. This is evident from the fact that the Tirunelveli Bar Association had posted a notice on 15.05.2019 signed by the Vice President and Secretary of the Bar Association stating that taking into account the fact that the respondent herein is a Senior Member of the Bar, has been a guiding light for the junior members of the Bar, a request was being made to the other members of the Bar to desist from appearing against the respondent.

3. The learned counsel appearing for the petitioners would further submit that the respondent being an Advocate and also on



account of this notice, the lawyers have been intimidated from taking up the case against the respondent herein.

4. Per contra, the learned counsel appearing on behalf of the respondent would submit that the second suit for damages has been filed by the respondent herein in O.S.No.282 of 2019, before the very same Court against the revision petitioners herein and in that suit, they have been adequately represented by none else, than the respondent's brother-in-law.

5. A reading of the plaint would clearly indicate that the entire cause of action has only arisen within the jurisdiction of District Munsif Court at Tirunelveli. Further the notice which the petitioners are now projecting as a reason for seeking transfer is only a request that has been made to the members of the Bar; it is not a resolution that has been passed. Therefore, I am of the view that there is no cause of action on a reasonable ground, for seeking the transfer. However, while dismissing the Transfer Civil Miscellaneous Petition, this Court cannot, but record its displeasure on the notice that has been issued by the Bar Association. It is unfortunate that the same is signed by the Vice President and Secretary of the Bar Association, which though projected as a notice does also act as a deterrent to any counsel deciding to appear for the petitioners. The office bearers of the Association cannot forget the oath taken by them when they had enrolled as members of the Bar. By issuing such a notice, the Association is attempting to impose a fetter on an Advocate to exercise his right to practise the profession. This Court would like to draw the reference from the judgment of the Hon'ble Supreme Court in the case of **A.S.Mohammed Rafi vs. State of Tamil Nadu represented by Home Department and others** reported in **(2011) 1 SCC 688** and the order of this Court in the case of C.R.P.(NPD).No.3336 of 2001 dated 20.11.2018 In the judgment cited supra reported in **(2011) 1 SCC 688**, the relevant portion of the order reads as follows:-

*"Professional ethics require that a lawyer cannot refuse a brief, provided a client is willing to pay his fee, and the lawyer is not otherwise engaged. Hence, the action of any Bar Association in passing such a resolution that none of its members will appear for a particular accused, whether on the ground that he is a policeman or on the ground that he is a suspected terrorist, rapist, mass murderer, etc. is against all norms of the Constitution, the statute and professional ethics. It is against the great traditions of the Bar which has always stood up for defending persons accused for a crime. Such a resolution is, in fact, a disgrace to the legal community. We declare that all such resolutions of*



*Bar Associations in India are null and void and the right-minded lawyers should ignore and defy such resolutions if they want democracy and rule of law to be upheld in this country. It is the duty of a lawyer to defend no matter what the consequences, and a lawyer who refuses to do so is not following the message of the Gita."*

6. The action of the office bearers of the Tirunelveli Bar Association therefore deserves to be highly deprecated.

7. With these observations, the Transfer Civil Miscellaneous Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS )

Tsg

To

The Principal District Munsif Court, Tirunelveli.

+1 CC to Mr.R.J.KARTHICK, Advocate ( SR-93581[F] dated 22/10/2019 )

**Tr.C.M.P(MD)No.260 of 2019**  
**and**  
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