



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 02.07.2018

DELIVERED ON : 09.01.2019

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Tr.C.M.P. (MD) No. 533 of 2017

and

CMP (MD) No. 11447 of 2017

Illancheliyan

.. Petitioner

vs

G.Suresh

.. Respondent

Petition filed under Section 24 of C.P.C., to transfer the suit in O.S.No.710 of 2017 pending on the file of the III Additional Subordinate Judge, Madurai to Subordinate Judge, Sivagangai.

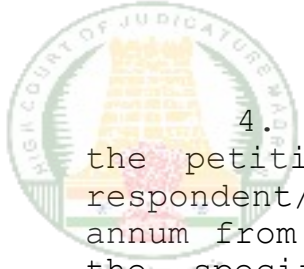
For Petitioner : Mr.S.Muthupandi
For Respondent : No Appearance

ORDER

Heard the learned counsel on behalf of the petitioner and perused the documents available on record. There is no representation on behalf of the respondent/plaintiff.

2. The petitioner has filed this petition under Section 24 of the Civil Procedure Code seeking to withdraw the suit in O.S.No.710 of 2016 pending on the file of the III Additional Sub Court, Madurai and transfer the same to the Principal District Court, Sivagangai.

3. The petitioner herein is the defendant in the suit, being O.S.No.710 of 2016 pending on the file of the learned III Additional Sub Court, Madurai, filed by the respondent/plaintiff seeking recovery of money. The petitioner claims that he has not received any money from the respondent and that he is around 80 years old and it is difficult for him to travel to Madurai for attending the hearing of the case. He further submitted that the suit related criminal matter is pending before the Court at Sivagangai and, therefore, he prayed for transfer of the said case.



4. The suit is filed by the respondent/plaintiff to direct the petitioner/defendant to pay a sum of Rs.1,36,000/- to the respondent/ plaintiff with interest on Rs.1,00,000/- at 12% per annum from the date of the plaint till date of realization. It is the specific case of the respondent/plaintiff that the suit promissory notes were executed in Madurai City, the place in which the suit was instituted. It is trite that plaintiff is *dominus litis*, that is, master of, or having dominion over, the case. He is the person who has carriage and control of an action. In case of conflict of jurisdiction, the choice ought to lie with the plaintiff to choose the forum best suited to him unless there be a rule of law excluding access to a forum of plaintiff's choice or permitting recourse to a forum will be opposed to public policy or will be an abuse of the process of law.

5. The provision empowering transferring of cases from one Court to another is intended to facilitate a party, when the party satisfies the Court that if the case is allowed to be adjudicated in the same Court, the party would invariably suffer irreparable injury. Mere presumptions or assumptions are not sufficient for transferring a case. On the other hand, good and sufficient grounds should be raised and proved. Only in such cases, transfer of a case is ordered to ensure that the applicant gets fair and impartial justice.

6. In the case on hand, nothing has been produced before this Court to show that the respondent/plaintiff is not entitled to institute the suit in Madurai or that the law excludes access to the forum chosen by the plaintiff. The petitioner/defendant had not adduced any justiciable reason for effecting transfer of the suit.

For the foregoing reasons, the following order is passed:

- (a) The transfer petition is dismissed;
- (b) The Court below is directed to take up the suit, being O.S.No.710 of 2016, on day to day basis, without giving any adjournments unnecessarily and dispose of the suit as expeditiously as possible, preferably within three months from the date of receipt of a copy of this order. Both sides are directed to extend their fullest co-operation for speedy disposal of the suit.
- (c) No costs.
- (d) Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/ True Copy /



To

1. The III Additional Subordinate Judge,
Madurai.

2. The Subordinate Judge,
Sivagangai.

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and
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