



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P(MD)No.529 of 2018

and

C.M.P(MD)No.12343 of 2018

L.Ajeesh

.. Petitioner/
Plaintiff

Vs.

1.M.Alhal Vijitha

2.T.Meeran Mohideen

.. Respondents/
Defendants

PRAYER:- Transfer Civil Miscellaneous Petition is filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw O.S.No.169 of 2018 on the file of the Principal Sub Court, Tenkasi and transfer it to the Principal Sub Court, Tirunelveli.

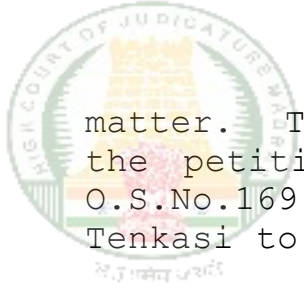
For Petitioner : Mr.T.Selvan

For Respondents : No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / plaintiff seeking transfer of O.S.No.162 of 2018 from the file of the Principal Sub Court, Tenkasi to the file of the Principal Sub Court, Tirunelveli.

2.Learned counsel for the petitioner would state that the petitioner / plaintiff filed the suit in O.S.No.169 of 2018 for the relief of permanent injunction in respect of the suit property. Along with the suit, he also filed I.A.No.361 of 2018 for temporary injunction. During the hearing in I.A.No.361 of 2018, the learned Principal Sub Judge, Tenkasi made comments against the petitioner / plaintiff and all along the learned Judge told that he is going to dismiss the petition and accordingly, dismissed the said petition on 17.09.2018, against which, he preferred an appeal before the Principal District Court, Tirunelveli and the appeal papers were returned stating that the names of the respondents were wrongly typed in the fair order. Since it is a typographical error, the petitioner / plaintiff filed an amendment application before the Principal Sub Court, Tenkasi, but the learned Judge posted the said petition on 20.11.2018 for filing counter and the learned Judge is not ready to pass orders in the said petition and also trying to prolong the



matter. The learned Judge has shown indifferent attitude against the petitioner / plaintiff. Therefore, he prayed to transfer O.S.No.169 of 2018 from the file of the Principal Sub Court, Tenkasi to the file of the Principal Sub Court, Tirunelveli.

3.Despite notice being served on the first respondent as well as the counsel, who appeared before the Court below on behalf of the second respondent and their names are being printed in the cause list, there is no representation on behalf of both the respondents either in person or through Counsel.

4.Heard the learned counsel for the petitioner and perused the materials available on record.

5.This transfer civil miscellaneous petition has been filed by the petitioner / plaintiff stating that the learned Judge has made so many comments against him during the hearing in I.A.No.361 of 2018 and dismissed the said petition. After getting certified copy of the order, the petitioner / plaintiff filed an appeal against the said order before the Principal District Court, Tirunelveli on 30.10.2018 and the same was returned on the ground that the names of the respondents are wrongly typed. The petitioner / plaintiff filed an amendment application before the Trial Court on 08.11.2018 and the same was adjourned to 20.11.2018 for filing counter.

6.It is seen that since the amendment has been sought for in respect of the names of the respondents, the learned Judge has adjourned the case for filing counter on the side of the respondents. The learned Judge exercising his judicial power, had granted adjournment for filing counter, which cannot be a ground for transfer. In the order passed in I.A.No.361 of 2018 on 17.09.2018, the learned Judge observed that in the main suit, the petitioner/plaintiff was examined as P.W.1 and the lease deed was marked as Ex.P.1 and to meet the ends of justice, adjudication of Ex.P.1 is necessary and ultimately came to a conclusion to dispose of the suit expeditiously, which in my considered opinion, is also not a ground for transfer. Therefore, I am not inclined to allow this petition. Accordingly, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (co)

// True Copy //



To

1.The Principal Sub Judge,
Tenkasi.

2.The Principal Sub Judge,
Tirunelveli.

+1 CC to M/s.T.SELVAN, Advocate (SR-60222[F] dated 10/04/2019)

smn

ORDER MADE IN
TR.C.M.P (MD) No.529 of 2018
and
C.M.P (MD) No.12343 of 2018
09.04.2019

KM/ (22.05.2019) 3P 4C