



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

Tr.C.M.P.(MD).No.272 of 2019 and
C.M.P.(MD).No.6391 of 2019

1.K.Lakshmi
2.K.Mahalakshmi

.. Petitioners/Petitioners

Vs.

1.R.Sivakumar
2.K.Mounagururaja

.. Respondents/Respondents

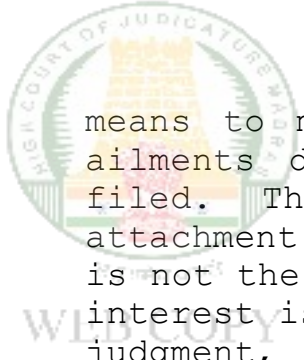
Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw the entire proceedings of I.A.No.89 of 2018 in I.A.No.88 of 2018 along with O.S.No.122 of 2016 pending before the Additional District Court (FTC), Palani and transfer the same to the Principal District Court, Madurai or any other appropriate forum.

For Petitioner : Mr.S.Raja

ORDER

This transfer civil miscellaneous petition is filed by the third parties to the suit in O.S.No.122 of 2016.

2.The petitioners have stated that the suit in O.S.No.122 of 2016 has been filed before the Principal District Court, Dindigul, against the second respondent in this petition for recovery of money on the basis of a pronote. It is admitted that along with the suit, the first respondent who is the plaintiff in the suit has filed an application in I.A.No.303 of 2016 for attachment before judgment of property of second respondent. An order was passed in the petition attaching the properties before judgment. It is also admitted by the petitioners, that they have filed a petition in I.A.No.89 of 2018 to raise the order of attachment. It is learnt that the case is now posted for enquiry. At this stage, the petitioner has filed this petition stating that the proceedings pending before the Court in Dindigul should be transferred to Madurai, where the petitioners are living. The only ground alleged is that the properties that were attached is the property of second respondent herein who is the son of the first petitioner. Stating that the petitioner has no



means to meet expenses and that she is suffering from physical ailments due to old age, the present petition for transfer is filed. The petitioners have only filed the petition to raise the attachment of a property stating that the second respondent herein is not the absolute owner of the property. Since the petitioner's interest is only regarding the properties which is attached before judgment, the scope of enquiry in interlocutory application filed by the petitioners is confined to the alleged right of the petitioners. When the matter is posted for evidence, the petitioner has approached this Court with the transfer petition. This court is unable to find any bonafide. For the convenience of a third party who has stated to have some interest in the property attached before the judgment, the proceedings cannot be transferred. Upon proof of her right, title and interest in respect of the property attached, the interlocutory application filed by the petitioners can be decided. The second petitioner is also the daughter of the first petitioner. She does not suffer from any physical ailment or in capacity to attend the court. Hence, there is no merit in this transfer civil miscellaneous petition.

3. Accordingly, this transfer civil miscellaneous petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Cr1.Side)

// True Copy //

Sub Assistant Registrar(CS)

To

The Additional District Judge (FTC), Palani.

Tr.C.M.P. (MD) .No.272 of 2019
19.07.2019

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