



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2019

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

Tr.C.M.P. (MD)No.177 of 2016

and

C.M.P(MD) No.3181 of 2016

WEB COPY

Muralidharan

... Petitioner

Vs.

1.Solaimmai
2.Kulandaivel
3.Gnanasundari

... Respondents

PRAYER:- Petition filed under Section 24 of Civil Procedure Code, to withdraw the suit in O.S.No.59 of 2013 on the file of the District Munsif Court, Thiruvayyaru, Thanjavur District and to transfer the same to 1st Additional District Court, (P.C.R), Thanjavur and to try along with O.S.No.15/2012.

For Petitioner : No appearance

For Respondent : No appearance

ORDER

The above Transfer Civil Miscellaneous Petition is filed to withdraw the suit O.S.No.59/2013, pending on the file of the District Munsif, Thiruvaiyyaru to the file of the First Additional District Court (PCR), Thanjavur to be tried along with O.S.No.15/2012.

2.None appears for the petitioner. Though the notice has been served on the respondents and their names have been printed in the cause list, none appeared on behalf of the respondents. Therefore, this matter is taken up by this Court for disposal.

3.The facts in brief which are necessary to dispose of the above transfer civil revision petition are as follows:-

The revision petitioner herein has filed a suit O.S.No.15/2012 on the file of the First Additional District Judge, Thanjavur, against the second respondent herein for specific performance of an agreement for sale dated 11.09.2009 in respect of the suit schedule property. It is further seen that one Sivasankari, who is the daughter of the second respondent through his wife Thangammal had filed a suit for partition on the file of the Principal Subordinate Judge's Court in O.S.No.20/2008. A preliminary decree came to be passed by the Sub-Court, Thanjavur directing 1/9 share to the plaintiff therein. The decree was



thereafter sought to be executed by the plaintiff therein namely Sivasankari in E.P.No.23/2013. Suppressing the above suit and decree, the agreement of sale has been executed by the second respondent in favour of the plaintiff and it is this agreement of sale which is the subject matter of the suit O.S.No.15/2012.

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4.In the mean while, the third respondent herein has filed O.S.No.59/2013 against the first and second respondents herein on the file of the District Munsif at Thiruvaiyyaru. The said suit was filed without impleading the revision petitioner herein and thereafter, he filed I.A.No.669/2013 to implead himself as a defendant in the suit O.S.No.59/2013. The said application was ordered on 12.02.2014. This order was challenged by the third respondent in C.R.P.(MD).No.1024/2014 and the same is pending disposal.

5.In the meanwhile, the revision petitioner had also filed I.A.No.416/2014 in the suit O.S.No.15/12 to stay all further proceedings in E.P.No.23/2013 in O.S.No.20/2008. This petition was allowed by an order dated 08.09.2014. It is also seen that the third respondent has filed I.A.No.14/15 in the suit O.S.No.15/12 to implead herself as a defendant. This application has also been allowed by an order dated 14.12.2015. Considering the fact that the subject matter of the suits are similar, the present Transfer Civil Miscellaneous Petition has been filed by the plaintiff in the suit O.S.No.15/12.

6.Considering the fact that the subject matter is the same in the two suits and the fact that the parties are also same, this Court is inclined to order this Transfer Civil Miscellaneous Petition.

7.In fine, the suit O.S.No.59/2013 is withdrawn from the file of the District Munsif, Thiruvaiyyaru and transferred to the First Additional District Court (P C R), Thanjavur to be tried along with O.S.No.15/12. Accordingly, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The District Munsif Court,
Thiruvayyaru, Thanjavur District

2.The 1st Additional District Court, (P.C.R),
Thanjavur

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-86420[F] dated
12/09/2019)

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