



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2019

CORAM

THE HONOURABLE MS.JUSTICE P.T. ASHA

TR.C.M.P. (MD)No.460 of 2018
and C.M.P(MD)No.10790 of 2018

V.Neethimohan

... Petitioner

Vs.

1.N.Kannammal
2.N.S.Sivaraj
3.N.Udayakumar
4.N.Valarmathi
5.N.Nagarajan

...Respondents

PRAYER:- Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw the appeal in A.S.No.242 of 2000 on the file of the Principal District Court, Madurai and to transfer the same to the file of this Court to be heard along with the appeals in A.S.No.665 of 2001 and A.S.No.666 of 2001 pending before this Court.

For Petitioner : Mr.J.Bharathan
For Respondent : No appearance

J U D G M E N T

The above transfer civil miscellaneous petition is filed to withdraw the appeal in A.S.No.242 of 2000 from the file of the Principal District Court, Madurai to the file of this Court to be heard along with the appeals in A.S.No.665 of 2001 and A.S.No.666 of 2001 pending before this Court.

2. Heard the learned counsel for the petitioner.

3. Notice has been served on the respondents and their names are printed in the cause list. However, they have not entered appearance either in person or through counsel. Therefore, this Court proceeds to hear the transfer civil miscellaneous petition in their absence.

4. The details of the various proceedings pending between the petitioner and the respondent are as follows:

I) O.S.No.445 of 1985 is filed by the petitioner against the father of the respondents herein for a bare injunction.

ii) O.S.No.3 of 1986 is filed by the father of the respondents



against petitioners again for a bare injunction.

iii) O.S.No.252 of 1986 is filed by the brother of the petitioner against the father of the respondents.

5. All the three suits were tried together and the III Additional Subordinate Judge, Madurai vide judgment and decree dated 28.07.2010 was pleased to allow O.S.No.252 of 1986 and dismissed other suits in O.S.No.445 of 1985 and O.S.No.3 of 1986.

6. The judgment and decree passed in O.S.No.445 of 1985 and O.S.No.3 of 1986 were taken up on appeal in A.S.No.665 of 2001 and A.S.No.666 of 2001 before this Court. Likewise, the respondents have filed an appeal in A.S.No. 242 of 2000 against the judgment and decree passed in O.S.252 of 1986 before the Principal District Court, Madurai.

7. The two appeals A.S.Nos.665 of 2001 and 666 of 2001 are pending on the file of this Court. Originally, by judgment and decree dated 30.04.2000 this Court was pleased to allow the said appeals. Challenging the same, the petitioner, had moved the Hon'ble Supreme Court. By order dated 29.10.2014, A.S.No.665 and 666 of 2001 were remitted back to the file of this Court. It is at this juncture the present application has been moved to withdraw and transfer A.S.No.242 of 2000 pending on the file of the Principal District Judge, Madurai, to the file of this Court to be heard along with A.S.No.665 and 666 of 2001.

8. Heard the learned counsel for the petitioner.

9. Considering the fact that the subject matter and the parties in all the first appeals are one and the same and also taking note of the fact that the connected two first appeals are pending on the file of this Court, I am inclined to order this transfer civil miscellaneous petition as prayed for.

10. The first appeal in A.S.No.242 of 2000 on the file of the Principal District Judge, Madurai is directed to be withdrawn and transfer to the file of this Court to be tried along with A.S.Nos.665 and 666 of 2001.

11. In fine, this transfer civil miscellaneous petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //



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To,

The Principal District Court, Madurai

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+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-87312[F] dated
18/09/2019)

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