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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Transfer C.M.P.No.204 of 2019

1.S.Meganathan
2.R.Vijayakumar

... Petitioners

vs.
1.

1. G.Jayaraman
2. J.Jayalakshmi
3. J.Nirmala
4. J.Kumaran
5. Sri Devi Karumariamman Educational Trust,
represented by its Trustee,
Registered Office at No.5, Chellammal Complex,
Janaki Nagar, Arcot Road,
Valasaravakkam,
Chennai 600 087.

...Respondents

Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.259 of 2017 now pending on the file of the Principal District Munsif Court at Poonamallee and transfer the same to the file of the District Court-II, Kancheepuram, where the Suits in O.S.No.56 of 2017 for permanent injunction and O.S.No.78 of 2017 for framing a Scheme Suit are pending, directing either common or joint trial of both the cases.

For Petitioners :Mr.N.Ramakrishnan
for M/s.Waraon and Sairams

For Respondents :M/s.C.Harsha Raj,
for M/s.Raj & Raj Associates

O R D E R

This Transfer Civil Miscellaneous Petition is filed seeking to withdraw the suit in O.S.No.259 of 2017 pending on the file of the Principal District Munsif Court at Poonamallee and transfer the same to the file of the District Court-II, Kancheepuram, where the Suits in O.S.No.56 of 2017 for permanent injunction and O.S.No.78 of 2017 for framing a Scheme Suit, are pending.

2. When the matter is taken up for hearing, learned counsel appearing for the Respondents contended that, adopting



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dilatory tactics, Petitioners have come up with the present Transfer Civil Miscellaneous Petition, and that, the parties wanted early disposal of the matter. He submitted that the parties have approached the Sub Court, ignoring the Arbitration clause and the Sub-Court held that, as the Civil Court is seized of the matter, parties cannot go back and insist that they have invoked the Arbitration clause.

3. It is represented that, during the pendency of the matter before the District Court, parties have addressed arguments in I.A.No.661 of 2018 in O.S.No.259 of 2017, and an order was passed as early as on 08.04.2019. In the meantime, the Presiding Officer/District Judge, who was hearing the matter got transferred, and the new Presiding Officer has been intimated that, within a period of six months, proceedings could take place.

4. It is further represented that, in the interregnum, an Application under Section 11 was made in O.P.No.477 of 2018, wherein, detailed orders have been passed with regard to the Civil Court deciding the issues on merits, removal of Trustees and other issues that have been raised in the Original Suit. Aggrieved by the said order, a Special Leave Petition has been filed vide Diary No.5134/2020 and the same is yet to be numbered. As a copy of the same is not available, a Petition to dispense with the production of the same is filed. In the meantime, as there is no interim order, the Court below is insisting the parties to address arguments.

5. Learned counsel appearing for the Petitioners submitted that, the parties have invited an order, not once, but twice, one directing I.A.No.661 of 2018 in O.S.No.259 of 2017 to be decided by the District Munsif, Poonamallee and the other one in O.P.No.477 of 2018. Even assuming that a Special Leave Petition is said to have been filed vide Diary No.5134/2020, it may not be a bar to proceed with I.A.No.661 of 2018 in O.S.No.259 of 2017, as the order dated 08.04.2019 is in force, and it has not been modified by any other Court as on date. Hence, prolonging the matter endlessly is not going to benefit anyone, as, proceedings will have to go on.

6. Taking note of the submissions of the learned counsel for the parties, whether the order in O.P.No.477 of 2018 is going to have any bearing in the issue on hand or not, need to be gone into, as it is submitted that, Special Leave Petition is pending and that too unnumbered.

7. As there is an earlier order dated 08.04.2009 for speedy disposal of I.A.No.661 of 2018 in O.S.No.259 of 2017, the Principal District Munsif, Poonamallee shall dispose of the Suit in O.S.No.259 of 2017 on merits and in accordance



with law, within a period of one month from the date of receipt of a copy of this order. The Principal District Munsif, Poonamallee is expected not to adjourn the matter beyond two working days at any point of time, to bring the issue to a logical conclusion.

8. As to whether any one of the parties is going to use the order dated 27.11.2019 passed in O.P.No.477 of 2018 in their favour or not, cannot be answered by this Court and it is for the parties to make their submissions before the Court below. In the meantime, if any order is passed by the Apex Court in the above Special Leave Petition, the same shall be brought to the notice of this Court.

9. This Transfer Civil Miscellaneous is closed with the above direction. No costs. Consequently, connected C.M.P.No.6264 of 2019 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

(aeb)

To :
The Principal District Munsif Court,
Poonamallee.

+1cc to M/s.Waraon and Sairams, Advocate SR.11250
+1cc to M/s.C.Harsha Raj, Advocate SR.12361

Tr.C.M.P.No.204 of 2019

MP(CO)
CB(10/07/2020)