

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

TR.C.M.P.NOS.460 AND 469 OF 2020

AND

CMP.NOS.10980 AND 11270/2020

T.Vijayakumar

.. Petitioner in both Tr.CMPs.

-vs-

1. Thirumoorthy

2. Pankajamani

3. V.T.Moorthy

.. Respondents in both Tr.CMPs.

Transfer Civil Miscellaneous Petitions filed under Section 24 of the Civil Procedure Code, to withdraw A.S.Nos.10 and 9 of 2020 on the file of the I Additional District Judge, Coimbatore and transfer the same to any other District Judge at Coimbatore.

For Petitioner :: Mr.K.Myilsamy

For Respondents :: ...

ORDER

The matters were taken up through video conferencing due to the Covid-19 pandemic.

2. The petitioner has filed these Transfer Civil Miscellaneous Petitions seeking to withdraw A.S.Nos.10 and 9 of 2020 pending on the file of the I Additional District Judge, Coimbatore and transfer the same to any other District Court at Coimbatore.

3. Learned Counsel appearing for the petitioner made a peculiar argument before me that when the plaintiff/petitioner herein has filed a suit in O.S.No.74/2007 on the file of the learned Subordinate Judge, Tiruppur, seeking to pass a decree for Specific Performance, directing the defendants/respondents herein to receive the balance of sale price of Rs.10,000/- and to execute and register a Sale Deed for Rs.2,00,000/- in favour of the plaintiff in respect of the plaint scheduled property and to put the plaintiff in possession thereof within a date to be fixed by the court, the said suit was heavily contested by the

respondents herein by filing a Written Statement. The same was renumbered as O.S.No.945/2014 before the learned Principal Subordinate Judge, Coimbatore. Subsequently, the said suit was dismissed and the petitioner has also filed another suit in O.S.No.943/2014 before the learned Principal Subordinate Judge, Coimbatore to cancel the decree dated 16.7.2007 passed in O.S.No.199/2007 in favour of the 3rd respondent. That was also dismissed by a judgment dated 30.08.2019. Aggrieved thereby, he has also filed two appeals in A.S.Nos.9 and 10 before the learned Principal District Judge, Coimbatore.

4. Learned Counsel for the petitioner further submitted that when the matters were pending before the learned I Additional District Judge, Coimbatore, the Counsel on the other side started making proclamation that he has got a fair chance of success before the I Appellate Court. Entertaining doubt, the plaintiff/petitioner was advised to move these Transfer CMPs. on the ground that the First Appellate Court has shown sufficient favour by directing both the parties to argue the case on day to day basis. Secondly, the learned I Appellate Court, ignoring the fact that the appeals have been filed only in the year 2020, it cannot be taken so quickly asking the parties to get ready to argue the cases. Thirdly, during this pandemic situation, it will be highly difficult to proceed with the matters as expected by the learned I Appellate Court. Therefore, if the matters are transferred from the learned I Additional District Judge, Coimbatore, to any other District Court, Coimbatore, no prejudice would be caused to anyone.

5. But this Court is indeed at a loss to see any justification or reason for the plaintiff/petitioner herein to come to this Court seeking transfer of A.S.Nos.9 and 10 of 2020 pending on the file of the learned I Additional District Judge, Coimbatore to any other District Court. The three reasons mentioned above by the learned Counsel for the petitioner shows that when speedy justice has become one of the fundamental rights of a citizen, the I Appellate Court asking the parties to get ready and proceed with the matters can never be found fault with. Therefore, the peculiar argument advanced before me that the I Appellate Court has been asking both the parties to proceed with the matter on day-to-day basis is completely without any merit and frivolous. Therefore, the said argument is rejected. Secondly, the argument advanced before me that the other side has been proclaiming that they have got a better chance before the I Appellate Court that is created suspicion in the mind of the plaintiff/petitioner herein is also not supported by any good common sense. The reason being that when everybody is entitled to believe that he or she has got a fair chance before the court where his or her case is pending, it is not known how the learned Counsel for the petitioner can take

exception to that. Therefore, the said argument is also rejected. Thirdly, during the Covid-19 pandemic situation, it is proper on the part of the courts to pressurize the parties to argue their case also holds good, since the courts are all closed down and there has been no fresh filing. Therefore, finding no ground whatsoever, this Court of the view that both the Transfer CMPs. are liable to be dismissed

6. In the result, the Transfer CMPs. are dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

tsi

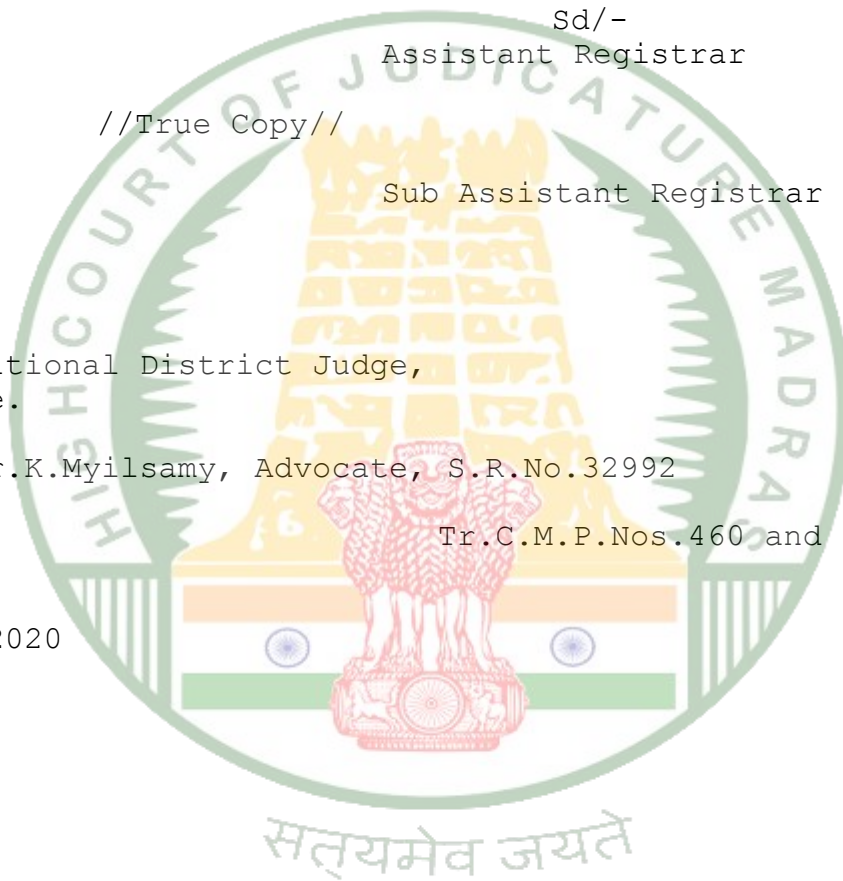
To

The I Additional District Judge,
Coimbatore.

+1cc to Mr.K.Myilsamy, Advocate, S.R.No.32992

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AJS (CO)
CS/03/11/2020



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