

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.745 of 2019

1. P.Bhavani
2. B.Lakshmi

.. Petitioners

-vs-

1. P.Rajeswari
2. P.Sridevi
3. G.Vasantha Lakshmi
4. B.Sairam
5. P.Aruna

.. Respondents

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer the suit in O.S.No.2724 of 2019 on the file of the XV Additional Judge, City Civil Court, Chennai to this Hon'ble Court to be tried along with O.P.No.427 of 2012.

For Petitioners :: Mr.O.Padmaprakash

For Respondents :: Mr.J.D.Srikanth Varun

ORDER

Heard learned counsel for the parties through video conferencing due to the Covid-19 pandemic.

2. This transfer civil miscellaneous petition has been filed seeking an order to withdraw the suit in O.S.No.2724 of 2019 from the file of the learned XV Additional Judge, City Civil Court, Chennai and transfer the same to this Hon'ble Court to be tried along with O.P.No.427 of 2012 filed for Letters of Administration.

3. It has been stated that the suit in C.S.No.721 of 2011 was filed by the respondents before this Court seeking for a declaration that the four settlement deeds dated 22.2.2008 registered as Document Nos.670 of 2008, 671 of 2008, 672 of 2008 and 673 of 2008 before the Sub Registrar, Kodambakkam executed by the father of the petitioners in their favour, are null and

void and not binding upon the respondents and also for a consequential relief of permanent injunction. This suit has been transferred to the City Civil Court due to the change of pecuniary jurisdiction and is now re-numbered as O.S.No.2724 of 2019 and pending on the file of the learned XV Additional Judge, City Civil Court, Chennai. The petitioners have also filed O.P.No.427 of 2012 before this Court for grant of Letters of Administration and the same is re-numbered as T.O.S.No.6 of 2020. Learned counsel appearing for the petitioners, referring to paragraph-5 of the counter affidavit, stated that the respondents cannot take a stand that the suit in O.S.No.2724 of 2019 has nothing to do and not at all connected with the Will dated 22.2.2008. Again they have taken one another stand in paragraph-6 of the counter affidavit that the Will presented by the petitioners is not genuine and proper and therefore not connected to O.S.No.2724 of 2019.

4. Learned counsel appearing for the respondents submitted that when the Will dated 22.2.2008 presented by the petitioners herein is not genuine and proper, the respondents have rightly stated that it is not connected with the O.S.No.2724 of 2019. Again opposing the prayer for transfer, he stated that when the trial is over and the matter is posted for arguments, at this stage, if the matter is transferred from the City Civil Court to the file of this Court, the precious and valuable time of this Court would be wasted. Since the parties are also same both before the trial Court and the High Court, it is for the petitioners to make out their case, if they have, before the High Court. Therefore, the question of transfer will not be necessitated, more particularly, when the suit has been transferred to the City Civil Court due to the pecuniary jurisdiction and once again the same cannot be transferred back to the High Court, because the High Court cannot have the pecuniary jurisdiction to try the said suit.

5. I also find merits on the submissions made by the learned counsel for respondents. When the civil suit in C.S.No.721 of 2011 filed by the respondents for a declaration that the four settlement deeds dated 22.2.2008 registered as Document Nos.670 of 2008, 671 of 2008, 672 of 2008 and 673 of 2008 before the Sub Registrar, Kodambakkam executed by the father of the petitioners in their favour, has been transferred to the City Civil Court and has been re-numbered as O.S.No.2724 of 2019 and pending on the file of the learned XV Additional Judge, City Civil Court, Chennai, the same cannot be transferred back to this Court. Secondly, the trial is also ripen for arguments. When the trial is over, transferring again the O.S.No.2724 of 2019 will be making the trial conducted by the trial Court to be a wasteful exercise. Finally, when the C.S.No.721 of 2011 (re-numbered as O.S.No.2724 of 2019) is pending from 2011 and the O.P.No.427 of

2012 (re-numbered as T.O.S.No.6 of 2020) is pending from the year 2012, taking out this transfer petition so belatedly cannot be entertained. Therefore, the transfer civil miscellaneous petition fails and it is dismissed. Consequently, C.M.P.No.20892 of 2019 is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The XV Additional Judge
City Civil Court, Chennai.
2. The Sub Registrar,
Kodambakkam, Chennai.

+lcc to M/s.K.Ramanatha Reddy, Advocate Sr.No.26199

Tr.C.M.P.No.745 of 2019

vsn ii (co)
rr ii (14/09/2020)

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