

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

Crl OP.No.25712 of 2019

M/s. Shanmuga Electricals
Partnership Firm
Represented by its partner
P.Arul Murugan
No.14, Kutchery Street
Rasipuram Town (post) & Taluk
Namakkal District.

...Petitioner

Vs.

1. M/s. Drills India
Proprietorship concern
Sakthinaickenpalayam
Mylankattur
Tiruchengode Taluk, Namakkal District.

2. M.C. Vadivel
Proprietor
M/s. Drills India
Sakthinaickenpalayam
Mylankattur
Tiruchengode Taluk, Namakkal District.

...Respondents

Prayer: Criminal Original Petition filed under Section 407 of Cr.PC praying to withdraw the C.C.No.13 of 2016 pending on the file of Judicial Magistrate Court, Rasipuram and transfer the same to the court of the Judicial Magistrate No.IV of Salem.

For Petitioner : Mr. A. Raghupathy Raj
For Respondents : Mr. M. Arun Kumar

ORDER

The petitioner has laid the Criminal Original Petition to withdraw the C.C. No.13/16 pending on the file of the Judicial Magistrate Court, Rasipuram and transfer the same to the court of Judicial Magistrate Court No.IV, Salem.

2. The petitioner has preferred the private complaint against the respondents under Section 138 of the Negotiable Instrument Act. As per the case of the petitioner, based on the official address of the petitioner, the case has been preferred before the Judicial Magistrate Court, Rasipuram. The abovesaid private complaint has been taken on file in CC No.13/16 and it is found that the trial has commenced. It is now represented that the case stands adjourned for the cross examination of D.W.1.

3. Now according to the petitioner, D.W.1 during the course of chief examination, has raised the jurisdiction issue and put forth that the cheques in question were submitted for collection through State Bank of India, Seelanaickenpatti Branch, Salem, and therefore, only the Judicial Magistrate Court, Salem would be the competent court to entertain the case preferred by the petitioner.

4. It is also stated by the petitioner that he has also preferred a memo in connection with the same before the Judicial Magistrate Court, Rasipuram. However, the said memo has not been entertained by the court and on the other hand, directed the petitioner to get appropriate orders from the competent court for transferring the case to the Salem Judicial Magistrate Court. Following the same, according to the petitioner, he has been necessitated to prefer this Criminal Original Petition. In this matter, notice has been ordered to the respondents and the respondents have entered their appearance through an advocate.

5. As above pointed out, the complaint has been lodged by the petitioner against the respondents under Section 138 Negotiable Instrument Act. It is found that the cheques in question were presented for collection in the State Bank of India, Seelanaickenpatti Branch, Salem. It is thus found that as per Section 142(2) of the Negotiable Instrument Act, only the Judicial Magistrate Court, Salem would be having the jurisdiction to entertain the case preferred by the petitioner against the respondents. Accordingly, it is found that even the respondents, during the course of evidence, tendered through D.W.1, has raised the jurisdiction issue.

6. The counsel for the respondents fairly conceded that considering the presentation of the cheques before the State Bank of India, Seelanaickenpatti Branch, Salem, he would submit that only the Judicial Magistrate Court, No.IV, Salem would be competent to entertain the case preferred by the petitioner.

7. Considering the abovesaid facts in toto, particularly considering

the import of Section 142(2) of the Negotiable Instrument Act and in the light of the presentation of the cheques in question for collection only with the State Bank of India, Seelanaickenpatti Branch, Salem, it is evident that only the Judicial Magistrate No.IV, Salem, would be competent to decide the issues involved between the parties. In the light of the abovesaid factors and in the interest of justice, the case should be tried by the competent court, i.e. Judicial Magistrate Court No.IV, Salem.

8. In the light of the abovesaid factors, the case levied by the petitioner against the respondents in C.C.No.13 of 2016 pending on the file of Judicial Magistrate Court, Rasipuram is transferred to the file of the Judicial Magistrate Court No.IV, Salem and the Judicial Magistrate Court No.IV, Salem is directed to dispose of the case in accordance with law.

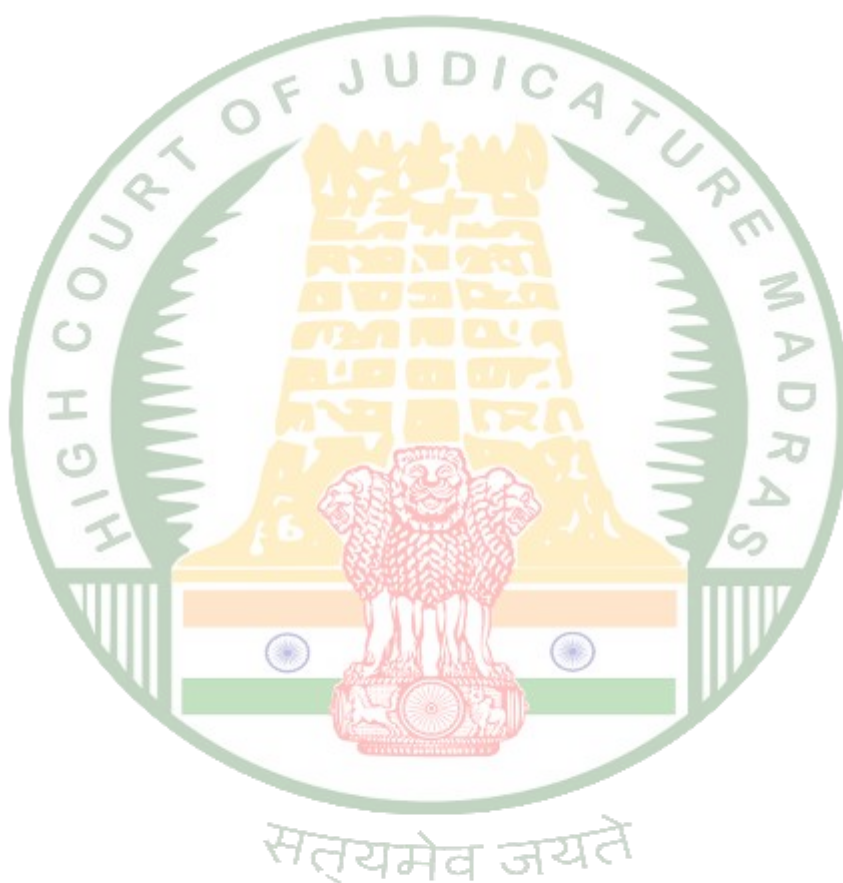
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1. The Judicial Magistrate Court, Rasipuram
2. The Judicial Magistrate Court No.IV, Salem



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