

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.O.P.No.29507 of 2019
and CrI.M.P.No.15913 of 2019

K.Manoharan,
S/o. Late krishnan

... Petitioner

Vs.

1. A.Devanathan
2. S.Sabanayagam

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to set aside the order passed in Tr.C.M.P.No.1054 of 2019 on the file of the Principal Sessions Judge, Salem, dated 03.09.2019 and transfer the case in S.T.C.No.367 of 2018 pending on the file of the Special Judicial Magistrate for Land Grabbing Cases, Salem to the file of the Judicial Magistrate No.1, Salem for joint trial along with the case in S.T.C.No.1198 of 2016.

For Petitioner : Mr.B.Gopalakrishnan

For Respondents

For R1 : Mr.P.Jagadeesan

For R2 : Mr.J.Arunprasad

ORDER

This petition has been filed seeking relief to set aside the order passed in Tr.C.M.P.No.1054 of 2019 on the file of the Principal Sessions Judge, Salem, dated 03.09.2019 and to transfer the case in S.T.C.No.367 of 2018 pending on the file of the Special Judicial Magistrate for Land Grabbing Cases, Salem to the file of the Judicial Magistrate No.1, Salem for joint trial along with the case in S.T.C.No.1198 of 2016.

2. Heard Mr.B.Gopalakrishnan, learned counsel appearing for the petitioner, Mr.P.Jagadeesan, learned counsel appearing for the first respondent and Mr.J.Arunprasad, learned counsel appearing for the second respondent.

3. Initially upon the complaint filed by the respondent the learned Judicial Magistrate No.I, Salem registered a case against the petitioner in S.T.C.No.1198 of 2016 under Section 138 of Negotiable Instruments Act (herein after referred to as "NI Act"). Similarly the learned Judicial Magistrate No.II, Salem registered one another case in S.T.C.No.976 of 2016 under Section 138 of NI Act.

4. After taking cognizance, due to administrative reasons, the case in S.T.C.No.976 of 2016 was transferred to Special Judicial Magistrate for Land Grabbing Cases Court, Salem, (herein after referred to as "Land Grabbing Court") wherein the said case was assigned with new number as S.T.C.No.367 of 2018. As of now the case in S.T.C.No.367 of 2018 pending on the file of the Land Grabbing Court is kept pending without any progress. Only in the said circumstances, the petitioner has approached the Court below to transfer the said case from the file of the Land Grabbing Court to the Judicial Magistrate Court No.I, Salem for joint trial along with S.T.C.No.1198 of 2018.

5. Since the prayer sought out by the petitioner is for joint trial, while at the time of disposing the said petition, the learned Judge came to the conclusion that both the cases were instituted by different persons ordering the joint trial cannot be possible. Further observed that the petition filed by the petitioner is not maintainable and ultimately dismissed the petition. Aggrieved over the said order, the petitioner is before this Court.

6. All are aware, due to the order passed by the Hon'ble Apex Court, the functioning of the Land Grabbing Courts now stands still without any disposal. On the other hand, the petition mentioned case is taken on file for the offence under Section 138 of NI Act. So it cannot be said that the said Land Grabbing Court alone is having jurisdiction to try the same. Therefore, transferring the said case from the Land Grabbing Court to some other Court alone is the proper remedy for the disposal of the said case. More than that, it is for the trial Judge to decide whether the joint trial or simultaneous trial is necessary in both the matters.

7. Therefore, for the sole reasons stated above, this Court comes to a conclusion that the order dated 03.09.2019 passed by the learned Principal Sessions Judge, Salem is liable to be set aside. Accordingly, the petition in Tr.C.M.P.No.1054 of 2019 is allowed and the case pending on the file of the Special Court for Land Grabbing Cases, Salem in S.T.C.No.367 of 2018 is hereby withdrawn and transferred to the file of the Judicial Magistrate Court No.I, Salem. The learned Special Judge

for Land Grabbing Cases, Salem is directed to transfer all the case records pertains to S.T.C.No.367 of 2018 to the Judicial Magistrate Court No.1, Salem. Upon receipt of the same, the learned Judicial Magistrate No.I, Salem has to decide whether joint trial or simultaneous trial is necessary for disposing both cases.

8. Accordingly, this Criminal Original Petition is allowed with the above directions. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

rts

To

1. The Principal Sessions Judge,
Salem.

2. The Judicial Magistrate No.1,
Salem.

3. The Special Judicial Magistrate
for Land Grabbing Cases,
Salem.

4.The Section Officer
Criminal Section
High court, Madras 104.

+1 Cc to Mr.J.Arunprasad, Advocate sr 36447

+1 Cc to Mr.S. Gunalan, Advocate sr 36298.

+1 CC to Mr.P.Jagadeesan, Advocate sr 36227

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CAA(19/12/2020)