

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.925 of 2019

K.S.Sundari

.. Petitioner/Plaintiff

Versus

1.A.M.Veeraraju

2.N.Ramasamy

3.The Official Receiver,
Salem District,
Combined Court Buildings,
Salem.

.. Respondents/Defendants

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw the suit in O.S.No.248 of 2018 from the file of the I Additional District Munsif Court, Erode, and to transfer the same to the file of the Subordinate Court, Sangagiri, to be tried along with I.P.No.9 of 2014 jointly or simultaneously.

For Petitioner : Mr.R.Prabakar
For R1 : Mr.M.Arun
For R2 : Ms.R.Nandhini
For R3 : Mr.S.S.Rajesh

O R D E R

Heard the parties through Video Conferencing due to COVID-19 pandemic.

2. Mrs.K.S.Sundari/plaintiff/petitioner herein, wife of K.Kandasamy, has filed this Transfer Civil Miscellaneous Petition seeking to withdraw the suit in O.S.No.248 of 2018 from the file of the learned I Additional District Munsif Court, Erode, and to transfer the same to the file of learned Subordinate Court, Sangagiri, to be tried along with I.P.No.9 of 2014 for joint trial, failing which, there will be multiplicity of proceedings, that would cause great prejudice not only to the petitioner but also to the respondents 1 and 2.

3. Learned counsel for the plaintiff/petitioner herein submitted that originally the property in question as described

in O.S.No.248 of 2018 pending before the learned I Additional District Munsif Court, Erode, was belonged to the first defendant/first respondent herein. Thereafter, the first defendant/first respondent herein had sold the property in question vide registered sale deed dated 05.03.2014 to one Jayammal and K.Selvi @ Selvarani, from whom, the plaintiff/petitioner herein had purchased the same by way of a registered sale deed dated 12.03.2015. Before purchase of the property in question, the petitioner made thorough verification of title documents and also the encumbrance of the suit schedule property and since there was no encumbrance relating to the suit property, the petitioner is a bonafide purchaser for a valuation consideration.

4. While the matter stood as above, he argued, a notice was affixed in front of the suit property on 12.04.2018 by the third respondent/Official Receiver, in which, she came to know that the first respondent filed Insolvency Proceedings against the second respondent and several other persons before the learned Sub-Court, Mettur, in I.P.No.2 of 2008 and subsequently, the same has been transferred to the file of learned Sub-Court, Sangagiri, and renumbered as I.P.No.9 of 2014. The petitioner was not made as a party in the said Insolvency Proceedings and in the said proceedings, only 1/4th share of the property has been included. Thereafter, the petitioner has filed the present suit in O.S.No.248 of 2018 on the file of I Additional District Munsif Court, Erode, seeking to declare that Insolvency Proceedings initiated by the first defendant/first respondent herein in I.P.No.9 of 2014 and I.A.No.22 of 2014 before the learned Sub-Court, Sangagiri, in respect of the suit property, is not binding upon the plaintiff/petitioner herein and other consequential relief.

5. Now, he pleaded, subject property involved in Insolvency Proceedings initiated by the first defendant/first respondent herein against the second respondent/second defendant in I.P.No.9 of 2014 is similar to the subject property involved in O.S.No.248 of 2018 filed by the plaintiff/petitioner herein pending on the file of learned I Additional District Munsif Court, Erode, and therefore, both I.P.No.9 of 2014 and O.S.No.248 of 2018 may be transferred to one Court so as to avoid multiplicity of proceedings against the parties herein.

6. Mr.M.Arun, learned counsel for the first defendant/first respondent herein, after some arguments, submitted that both matters may be clubbed together and disposed of by one Court to avoid multiplicity of proceedings.

7. Ms.R.Nandhini, learned counsel for the second defendant/second respondent herein stated that she is not going to file counter affidavit as it is not required.

8. Therefore, in the interest of both parties, as the subject property involved in I.P.No.9 of 2014 is similar to the subject property involved in O.S.No.248 of 2018, Civil Suit filed by the plaintiff/petitioner herein in O.S.No.248 of 2018 is withdrawn from the file of learned I Additional District Munsif Court, Erode, consequently, transferred to the file of learned Sub-Court, Sangagiri, to be tried along with I.P.No.9 of 2014 filed by the first defendant/first respondent herein for joint trial. On such transfer, learned Sub-Court, Sangagiri, shall dispose of both the cases together in the manner known to law as expeditiously as possible. With the above direction, this Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP.No.25298 of 2019 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rkm

To

1.Sub-Court, Sangagiri.

2.I Additional District Munsif Court, Erode.

+1 cc to Mr.A.Sundaravadhanan, Advocate Sr.No. 27260

Tr.C.M.P.No.925 of 2019

PVS (CO)

RMP (03/09/2020)

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