

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Tr.C.M.P.Nos.534 to 538 of 2017  
and Tr.C.M.P.Nos.977 to 981 of 2017  
and C.M.P.Nos.19814 to 19822 of 2017  
and C.M.P.Nos.10899 to 10903 of 2017

1. Chinnammal
2. Sundrammal

... Petitioners in Tr.C.M.P.Nos.534 to  
538 of 2017

- 1.P.Chinnasamy ...Petitioner in Tr. CMP No.977 of 2017
- 2.P.Murugan ...Petitioner in Tr. CMP No.978 of 2017
- 3.P.Surendran ...Petitioner in Tr. CMP No.979 of 2017
- 4.V.Kuppusamy ...Petitioner in Tr. CMP No.980 of 2017
- 5.V.Senthil Kumar ...Petitioner in Tr. CMP No.981 of 2017

Vs.

1. P.Murugan ... R1 in Tr.CMP No.534 of 2017  
... R10 in Tr.CMP No.535 of 2017  
... R10 in Tr.CMP No.536 and 537 of 2017  
... R10 in Tr.CMP No.538 of 2017
2. M.Deepa ...R2 in Tr.CMP No.534 and 535 of 2017  
...R2 in Tr.CMP No.536 and 537 of 2017  
...R2 in Tr.CMP No.538 of 2017
3. Kavitha @ Pachiyammal ...R3 in Tr.CMP No.534 of 2017  
...R3 in Tr.CMP No.535 of 2017  
...R3 in Tr.CMP No.536 and 537 of 2017  
...R3 in Tr.CMP No.538 of 2017
4. M.S.Palaniappan ...R4 in Tr.CMP No.534 and 535 of 2017  
...R4 in Tr.CMP No.536 and 537 of 2017  
...R4 in Tr.CMP No.538 of 2017
5. M.S.Rajamanickam ...R5 in Tr.CMP No.534 of 2017  
...R5 in Tr.CMP No.535 of 2017  
...R5 in Tr.CMP No.536 and 537 of 2017  
...R5 in Tr.CMP No.538 of 2017

6. Prabhu ...R6 in Tr.CMP No.534 of 2017  
...R6 in Tr.CMP No.535 of 2017  
...R6 in Tr.CMP No.536 and 537 of 2017  
...R6 in Tr.CMP No.538 of 2017
7. Minor Karthik  
\*Rep. by his next friend/father  
M.S.Rajamanikkam ...R7 in Tr.CMP No.534 of 2017  
...R7 in Tr.CMP No.535 of 2017  
...R7 in Tr.CMP No.536 and 537 of 2017  
...R7 in Tr.CMP No.538 of 2017
8. Minor Poovilizha Raja  
\*Rep. by his next friend/father  
M.S.Rajamanikkam ...R8 in Tr.CMP No.534 of 2017  
...R8 in Tr.CMP No.535 of 2017  
...R8 in Tr.CMP No.536 and 537 of 2017  
...R8 in Tr.CMP No.538 of 2017
9. R.Varatharajan ...R9 in Tr.CMP No.534 of 2017  
...R9 in Tr.CMP No.535 of 2017  
...R9 in Tr.CMP No.536 and 537 of 2017  
...R9 in Tr.CMP No.538 of 2017
- 10.P.Surendran ...R10 in Tr.CMP No.534 of 2017  
...R10 in Tr.CMP No.535 of 2017  
...R10 in Tr.CMP No.536 of 2017  
...R11 in Tr.CMP No.537 of 2017  
...R12 in Tr.CMP No.538 of 2017
- 11.Kuppusamy ...R11 in Tr.CMP No.534 of 2017  
...R11 in Tr.CMP No.535 of 2017  
...R11 in Tr.CMP No.536 of 2017  
...R1 in Tr.CMP No.537 of 2017  
...R11 in Tr.CMP No.538 of 2017
- 12.Chinnusamy  
S/o Periyasamy ...R12 in Tr.CMP No.534 of 2017  
...R12 in Tr.CMP No.535 of 2017  
...R1 in Tr.CMP No.536 of 2017  
...R12 in Tr.CMP No.537 of 2017  
...R12 in Tr.CMP No.538 of 2017
- 13.Senthilkumar ... R13 in Tr.CMP No.534 of 2017  
... R13 in Tr.CMP No.535 of 2017  
... R13 in Tr.CMP No.536 of 2017  
... R13 in Tr.CMP No.537 of 2017  
... R1 in Tr.CMP No.538 of 2017

- 1.M.Deepa
- 2.Kavitha @ Pachiyammal
- 3.Chinnammal
- 4.Sundarammal
- 5.M.S.Palaniappan
- 6.M.S.Rajamanickam
- 7.Prabhu
- 8.Karthik
- 9.Poovilizha Raja
- 10.R.Varatharajan

....Respondents 1 to 10 in Tr.CMP Nos.  
977 to 981 of 2017

11.P.Murugan ...11<sup>th</sup> Respondent in Tr.CMP No.977, 979 of  
2017, 980,981 of 2017

12.P.Surendran ...12<sup>th</sup> Respondent in Tr.CMP No.977 of 2017, and  
980,981 of 2017  
...11<sup>th</sup> Respondent in Tr.CMP No.978 of 2017

13.V.Kuppusamy ...13<sup>th</sup> Respondent in Tr.CMP No.977,978,  
979 of 2017  
...14<sup>th</sup> Respondent in Tr.CMP No.981 of 2017

14.V.Senthilkumar ...14<sup>th</sup> Respondent in Tr.CMP No.977,978,979,  
980 of 2017

15.P.Chinnasamy ...12<sup>th</sup> Respondent in Tr.CMP No.978, 979 of 2017  
...13<sup>th</sup> Respondent in Tr.CMP No.980 and  
981 of 2017

Prayer in Tr.C.M.P.Nos.534 to 538 of 2017 : Petitions filed under Section 24 of the Civil Procedure Code to withdraw the suit in O.S.Nos.16, 17, 18, 19 and 20 of 2009, respectively on the file of the District Munsif Court, Harur and transfer the same to the Subordinate Court of Sankari to be tried along with O.S.No.54 of 2009.

Prayer in Tr.C.M.P.Nos.977 to 981 of 2017 : Petitions filed under Section 24 of the Civil Procedure Code to withdraw and transfer the proceedings in O.S.No.54 of 2009 before the Sub Court, Sankari and transfer the same to the file of the Sub Court, Harur.

For Petitioners: Mr.P.Jagadeesan  
(in Tr.C.M.P.Nos.534 to 538 of 2017)  
and for Respondents 3 & 4 in  
Tr.CMPs 977 to 981 of 2017

For Respondents : Mr.T.Murugamanickam, Senior Counsel  
(in Tr.C.M.P.Nos.534 to 538 of 2017) for Ms.Zeenath Begum, for R1  
and for Petitioner in Tr.CMP No.977 to 981 of 2017

Mr.R.Marudhachalamurthy, for RR2 to 4  
(in Tr.CMP No.534 to 538 of 2017)

RR5 to 13 - No Appearance  
(in Tr.CMP No.534 to 538 of 2017)

RR1,2,5 to 14-No appearance  
(in Tr.CMP 977 to 981 of 2017)

### COMMON ORDER

These petitions have been filed for transfer of original suits, which are pending before the District Munsif Court, Harur and the Sub Court, Sankari.

2. The suits in O.S.Nos.16, 17, 18, 19 and 20 of 2009 have been instituted by the petitioners in Tr.C.M.P.Nos.977 to 981 of 2017 for declaration and permanent injunction before the District Munsif Court, Harur. The suit in O.S.No.54 of 2009 was filed by the petitioners in Tr.C.M.P.Nos.534 to 538 of 2017 before the Sub Court, Sankari for partition and separate possession. The prayer in Tr.C.M.P.Nos.977 to 981 of 2017 is to transfer the suits pending before the Sub Court, Sankari to Harur Court and other set of Tr.CMPs' are filed seeking transfer of suits in O.S.Nos.16 to 20 of 2019 to Sub Court to be tried along with O.S.No.54 of 2009.

3. Mr.T.Murugamanickam, learned Senior Counsel representing Ms.Zeenath Begum, learned counsel for the first respondent would urge that except the first item in O.S.No.54 of 2009, all other properties are situated within the jurisdiction of District Munsif Court, Harur and hence, the suit pending before the Sub Court, Sankari, may be transferred to Harur Court.

4. On the other hand, Mr.P.Jagadeesan, learned counsel for the petitioners submitted that the plaintiffs in O.S.No.54 of 2009 are ladies and it would be very difficult for them travel to Harur to conduct the suit proceedings.

5. Mr.R.Marudhachalamurthy, learned counsel appearing for the respondents 2 to 4 by drawing attention of this Court to Section 16 of C.P.C would argue that the suit in O.S.Nos.16 to 20 of 2009 had been rightly instituted before the District Munsif Court, Harur, where the immovable properties are situated and hence, the suit pending before the Sub Court, Sankari has to be transferred to Harur Court for trying along with the pending suits therein.

6. Heard the rival submissions and perused the available records.

7. In the case on hand, it is not disputed that the plaintiffs in O.S.No.54 of 2009 are the defendants in O.S.Nos.16 to 20 of 2009. It is equally not disputed that the properties involved in the suits are same and the issues to be tried in suits are inter-linked. These batch of Transfer Petitions came to be filed mainly on the ground of convenience of the parties.

8. It is apposite to note that Section 24 of C.P.C. empowers the High Court and District Court to transfer any suit, appeal and other proceedings for a valid reason from one Court to another within their respective jurisdiction, whereas, Section 16 deals with institution of the suits, where the subject matter is situated. Therefore, I do not find any merit in the contention of Mr.R.Marudhachalamurthy, learned counsel for the respondents 2 to 4.

9. In the light of the above facts and circumstances of the case, in order to meet the ends of justice and to avoid conflicting decisions, this Court is inclined to pass the following order:-

(i) The suits in O.S.No.16 to 20 of 2009 and O.S.No.54 of 2009 are ordered to be withdrawn from the District Munsif Court, Harur and Sub Court, Sankari respectively and transferred to the file of Principal Sub Court, Salem for joint trial; and

(ii) Considering the fact that the suits are pending for more than a decade, the learned Principal Sub Judge, Salem shall dispose of the suits on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order. It is made clear that the parties shall co-operate for the disposal of the suits in the time frame.

10. Accordingly, the Transfer Civil Miscellaneous petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pvs  
To

- 1.The Sub Judge,  
Sankari.
- 2.The District Munsif,  
Harur.
3. The Principal Sub Judge,  
Salem.

Copy to

The Section Officer, V.R.Section,  
High Court, Madras.

+1cc to Mr.R.Marudhachalamurthy, Advocate Sr.24053

Tr.C.M.P.Nos.534 to 538 of 2017  
and Tr.C.M.P.Nos.977 to 981 of 2017

ca[co]  
srg 04/08/2020

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