

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Tr.C.M.P.No.158 of 2020

And

C.M.P.No.5304 of 2020

P.M.Thanislass Nadar

..Petitioner

vs.

1.S.D.Selvarajesh

2.Minor Sahaya Siyana Mary

3.Minor Sahaya Sathyajith Thanis

4.The Tahsildar,
Thirukalukundram Taluk
Chengelpet District.

5.The Tahsildar,
Vetavalam Perur, Kilpenathur,
Kilpenathur Taluk, Thiruvannamalai District.

6.The Sub Registrar,
Vetavalam Perur, Kilpenathur Taluk,
Thiruvannamalai District.

7.The Inspector General of Registration,
Santhome High Road,
Santhome, Chennai.

8.Junior Engineer (O&M)
TNEB Nerumbur,
Thirukalukundram Taluk

..Respondents

PRAYER : The Tr.CMP is filed under Section 24 of Civil Procedure Code to withdraw the proceedings in OS.No.10 of 2020 on the file of the Additional District Court at Chengelpet and transfer the same to the file of any competent Court at Tiruvannamalai.

For Petitioner : Mr.M.Devaraj

For Respondent : M/s.S.Karthikeyanini[For R1]

Mr.S.Jeganathan

Government Advocate(CS)

[For R5 & R6]

No appearance for R2, R3, R4 & R7

O R D E R

The petition for transfer is filed to transfer O.S.No.10 of 2020 from Additional District Court at Chengelpet to any competent Court, Tiruvannamalai.

2. The reason stated to transfer the suit from Chengelpet to Tiruvannamalai is that the suit was instituted by the 1st respondent, alleging the illusory cause of action and in order to get an exparte decree. Whether the suit was instituted with proper cause of action or not as well as the maintainability and jurisdiction are to be decided by the Court in which the suit is filed. This Court cannot decide the issues with reference to the maintainability, cause of action etc., in a Transfer Petition. The suit was instituted by the respondents before the District Court at Chengalpet for Declaration and for Permanent Injunction. Comprehensive suit is filed, seeking various reliefs.

3. This Court is of the considered opinion that the reasons stated on merits cannot be adjudicated in the present Transfer Petition. Mere ground that the cause of action is improper or the Court has no jurisdiction, cannot be a ground to transfer the case. All such issues are to be resolved by the Competent Court by proper adjudication. As far as Transfer Petition is concerned, this Court is of the opinion that the reasons stated are neither candid nor convincing.

4. Accordingly, this Transfer Civil Miscellaneous Petition No.158 of 2020 stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Additional District Court,
Chengelpet.

+1 CC to Mr.M.Devaraj, Advocate sr 2400.

Tr.CMP No.158 of 2020

NRL (CO)
SP(05/02/2021)