



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.09.2021

CORAM:

THE HONOURABLE MRS. JUSTICE S. KANNAMMAL

Tr.C.M.P.No.375 of 2021
and
C.M.P.No.8671 of 2021

Govindaraj ... Petitioner/Defendant
Versus
M.Sivakumar ... Respondent/Plaintiff

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the O.S.No.147 of 2019 on the file of I Additional District Court, Salem and transfer the same to the District Court at Dharmapuri.

For Petitioner : Mr. C.Prabakaran

For Respondent : Mr. M. Sivakumar

ORDER

[The Case has been heard through video conference]

This petition has been filed by the petitioner to withdraw O.S.No.147 of 2019 on the file of I Additional District Court, Salem and transfer the same to the District Court at Dharmapuri.

2.The respondent has filed his counter by objecting the reasons put forth for the transfer and sought for dismissal of this petition.

3.Admittedly, O.S.No.147 of 2019 has been filed by the respondent for specific performance before I Additional District Court, Salem, and the same is pending part heard.

4.The learned counsel for the petitioner herein submitted



that since the respondent is being practicing advocate as well as carrying on prominent real estate business, he has been humiliated by one way or the another and also preventing other advocates to appear against him on his behalf. It is submitted that there is also possibility of depriving petitioner's valuable rights of conducting a free and fair trial, since the respondent is an influential person. It is further submitted that the petitioner's counsel too expressed some difficulty in appearing on his behalf against the respondent and sought for transferring the case to District Court at Dharmapuri.

5.Per Contra, the learned counsel for the respondent would contend that the suit was filed on 10.04.2019 and the written submission was filed on 13.09.2019 itself. Thereafter, the suit was referred to mediation on 13.11.2019 after framing of issues and the petitioner herein tried to delay the suit proceedings in the guise of mediation and the same was referred back to Court on 03.02.2021. He further contended that the respondent herein had filed the proof affidavit on 16.02.2021 and the case is posted for cross examination. The learned counsel would further submit that if at all the petitioner was really humiliated and was prevented by other advocates to appear on his behalf, he ought to have filed this petition long back which would prove the alleged apprehension is invented only with a sole object to prolong the case endlessly.

6.As contended by the learned counsel for the respondent, if the petitioner herein was really humiliated and was prevented by other advocates to appear against him, the situation would be so serious and the petitioner would have been forced to take action against the respondent and other advocates immediately. This petitioner could have immediately filed an affidavit before the concerned Court. The other reason since that the respondent is an influential person not only by money and muscle and also through profession, there is possibility of depriving petitioner's right for conducting a free and fair trial shall not be taken into consideration. The petitioner has not stated the specific date of hearing, on which he was humiliated and prevented by other advocates to appear against the respondent.

7.This Court is not satisfied with the reasons stated by the petitioner for transferring the case in O.S.No.147 of 2019 pending on the file of I Additional District Court, Salem and transfer the same to the District Court at Dharmapuri, since the case is pending for cross examination of P.W.1, the I Additional District Court, Salem, is directed to dispose of the case as expeditiously as possible.



8. In the result, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

gbi

To:

1. The I Additional District Judge,
Salem.

Tr.C.M.P.No.375 of 2021

VSN-II (CO)
SU(02/12/2021)