

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.221 of 2015

And

M.P.No.1 of 2015

Poongothai

..Petitioner/3rd Defendant

vs.

1.R.Mohan

..1st Respondent/1st Defendant

2.S.Ravichandran @ Ravi

..2nd Respondent/Plaintiff

3.G.Subramaniam

..3rd Respondent/2nd Defendant

PRAYER : The Tr.CMP is filed under Section 24 of Civil Procedure Code to withdraw and transfer the suit in O.S.No.39 of 2014 now pending on the file of the Sub Court, Tirupur to any other subordinate court at Coimbatore.

For Petitioner : Mr.Sabrish

For Mr.S.K.Rakhunathan

For Respondent : R1 - Notice sent - No such address

No appearance for R2 & R3

O R D E R

The petition for transfer is filed withdraw and transfer the suit in O.S.No.39 of 2014 from Sub Court, Tirupur to any other subordinate court at Coimbatore.

2. The present Transfer Petition is filed on 23.12.2014. 6 years lapsed and till today, the petitioner is unable to serve notice to the contesting respondents. Thus, this Court has taken the matter by hearing the petition on merits.

3. The learned counsel appearing on behalf of the petitioner mainly contended that whenever the petitioner appears before the Trial Court, the 2nd respondent, who is the Municipal Councillor having political clout, has been threatening the petitioner from proceeding with the suits. It is further stated that the 2nd respondent constantly threatening the petitioner whenever she appears before the Court to conduct her suit. The petitioner has shifted her residence and now residing at Coimbatore. Thus, she has filed a petition for transfer.

4. Under the guise of the pendency of this Transfer Petition, the suit is prolonged for more than 5 years. By virtue of the interim order granted in the Transfer Petition, the suit is unable to be proceeded with by the trial Court for more than 5 years. This is an unfortunate situation in spite of the interim order granted by this Court, the petitioner has not taken efficient steps to serve all the contesting respondents. Contrarily, it is represented that they are taken a Private Notice even recently and awaiting the acknowledgement from the respondents. This kind of evasive reply in the matter of service of notice after a lapse of 5 years can never be encouraged nor be accepted by the Courts. The suit is spending. In a pending suit, the petitioner is expected to serve notice to the respondents. Such a situation is certainly unacceptable. The possible inference would be that by taking undue advantage of the interim order, the petitioner has not taken effective steps to serve notice to the respondents. Such a legal and factual inference is to be drawn, in view of the fact that even now notice has not been served to the respondents by the petitioner despite the fact that the Court ordered Private Notice.

5. Even on merits, the only reason stated by the petitioner is that the 2nd respondent, who is threatening her, is a councillor. The suit was filed in the year 2014. The Transfer Petition is filed in the year 2015, now 6 years lapsed from the date of filing of the suit. Therefore, the reason stated 6 years back, cannot be accepted for the purpose of transferring the case.

6. This Court is of an opinion that such prolongation of the litigation can never be encouraged and the parties once instituted a suit, must co-operate for the early disposal of the same. Unnecessary adjournments or keeping the matters pending without any valid reason is not preferable. This being the factum, this Court is of the considered opinion that the reason stated for transferring the case are neither candid nor convincing.

7. Accordingly, the Transfer Civil Miscellaneous Petition in TR.CMP.No.221 of 2015 stands dismissed. The Trial Court is directed to expedite the trial as quick as possible. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Sub Court,
Tiruppur

Tr.CMP No.221 of 2015

PVS (CO)
SP (12/02/2021)



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