

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

Tr.C.M.P.Nos.447 & 482 of 2020

and

C.M.P.Nos.9828 and 11877 of 2020

Jeganathan ..Petitioner in Tr.C.M.P.No.447 of 2020/
2nd Defendant

R.Sasikala ..Petitioner in Tr.C.M.P.No.482 of 2020/
2nd Respondent

Vs.

1.R.Sasikala ..1st Respondent in TR.C.M.P. No. 447 of 2020/
Plaintiff

2.R.Dhanasekaran ..2nd Respondents in Tr.C.M.P.No.447 of 2020/
1st Defendant

3.Jeganathan

4.Deepa

5.Karthiga

..3 to 5 Respondents in

Tr.C.M.P. No.482 of 2020/Petitioners

6.Ramasamy

..6th Respondent in Tr.C.M.P. No. 482 of 2020/
1st Respondent

7.District Collector,
Salem District,
District Collectorate,
Salem - 636 001.

8.Revenue Divisional Officer,
Attur Taluk, Salem Cuddalore Main Road,
Near Fire Station,
Attur, Salem District.

9.Thasildar,
Taluk Office Premises, Attur Town, Salem.

..7 to 9 Respondents in Tr.C.M.P.No.482 of 2020/
3 to 5 Respondents

Prayer in Tr.C.M.P.No.447/2020 : Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure praying to withdraw and transfer the suit O.S.No.138 of 2020, on the file of Hon'ble Mahila Court, Namakkal District, for joint or simultaneous trial with O.S.No.134 of 2020, on the file of Hon'ble District Munsif Court, Attur Taluk, Salem District.

Prayer in Tr.C.M.P.No.482/2020 : Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure praying to withdraw O.S.No.134 of 2020 on the file of Additional District Munsif, Attur and transfer to try jointly and simultaneously along with O.S.No.138 of 2020 on the file of District Mahila, Namakkal.

For Petitioner :Mr.K.Shakespeare

For Respondents :Mr.J.Prithvi for R1
No appearance for R2
...in Tr.C.M.P.No.447 of 2020

For Petitioner :Mr.J.Prithvi

For Respondents:Mr.K.Shakespeare for R1 to R3
Mr.N.Manikandan,
Government Advocate for R5 to R7
No appearance for R4
...in Tr.C.M.P.No.482 of 2020

COMMON JUDGMENT

In Tr.C.M.P.No.482 of 2020, the petitioner states that she filed a suit in O.S.No.138 of 2020 for partition and permanent injunction. The suit for partition is now pending before the Mahila Court, Namakkal. Eight properties were sought to be partitioned in the said Civil Suit filed in O.S.No.138 of 2020. Meanwhile, the another suit was instituted against the petitioner Smt.Sasikala in O.S.No.134 of 2020 on the file of District Munsif Court, Attur. The suit was instituted and declared as null and void. In the said suit the District Collector, Salem District, also impleaded as third respondent.

2.The learned counsel for the petitioner states that the suit for partition is a comprehensive suit and larger relief has been sought for. The suit in O.S.No.134 of 2020 is filed by one Mr.Jeganathan, Deepa and Karthiga for declaration to declare that the sale deed executed is null and void.

3.The learned counsel for the respondents raised an objection by stating that the suit at Munsif Court may be transferred to Salem District as five of the properties are situated in Salem District and therefore, the suit filed in O.S.No.138 of 2000 is to be transferred to Court at Attur.

4.This Court is of the considered opinion that the suit for partition is comprehensive suit. This apart, the partition suit is now pending before the Mahila Court, Namakkal and the Presiding Officer is in the rank of District Judge. However, the suit in O.S.No.134 of 2020 is now pending before the Additional District Munsif, Attur, Salem District. Under these circumstances, this Court cannot transfer the case pending before the District Court to Munsif Court. Contrarily, the suit pending before the Munsif Court may be transferred to the District Court for common trial or to decide the issues in the manner known to law.

5.This being the factum, the O.S.No.134 of 2020 pending on the file of the Additional District Munsif, Attur, Salem District, stands transferred to Mahila Court at Namakkal, to be tried along with O.S.No.138 of 2020.

6.Accordingly, Tr.C.M.P.No.482 of 2020 stands allowed and in view of the orders passed in Tr.C.M.P.No.482 of 2020, no further orders required in Tr.C.M.P.No.447 of 2020. Accordingly, the same stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

Pns

To

1.The Mahila Court, Namakkal District.

2.The District Munsif Court, Attur Taluk, Salem District.

3.The Additional District Munsif, Attur.

4.The District Mahila, Namakkal.

5.District Collector,
Salem District,
District Collectorate,
Salem - 636 001.

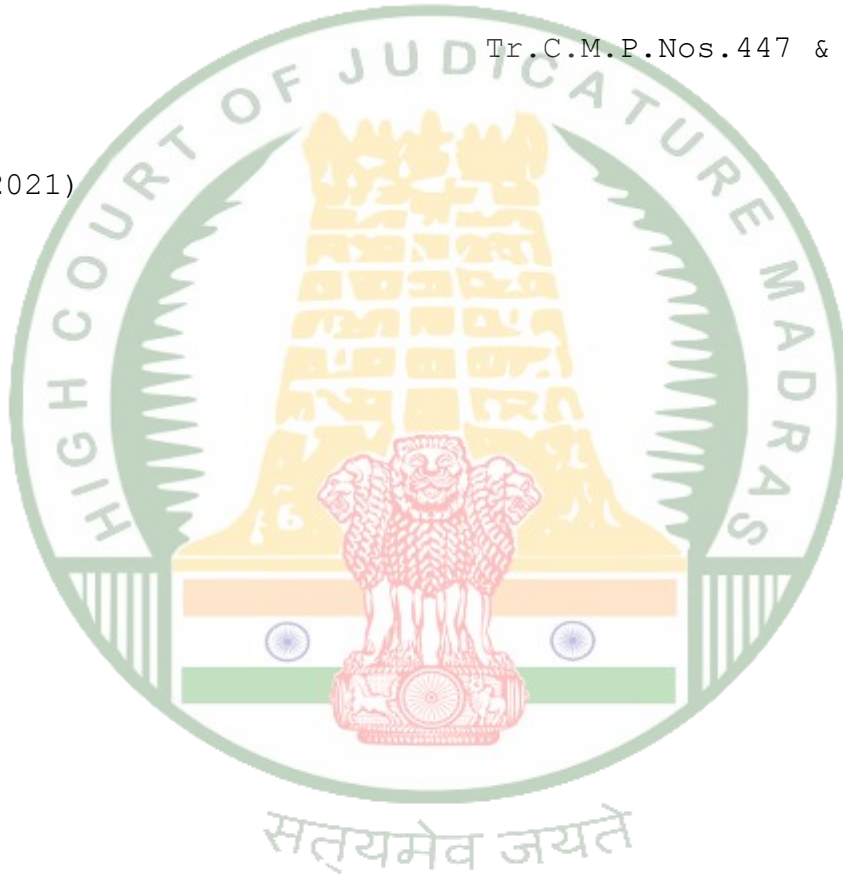
6.Revenue Divisional Officer,
Attur Taluk, Salem Cuddalore Main Road,
Near Fire Station,
Attur, Salem District.

7.Thasildar,
Taluk Office Premises, Attur Town, Salem.

+1 CC to Mr.S. Kaithamalai Kumaran, Advocate sr 7170
+1 CC to The Special Government Pleader(CS) sr 7564
+2 Ccs to Mr.K.Shakespeare, Advocate sr 7286, 7285.

Tr.C.M.P.Nos.447 & 482 of 2020

CA(CO)
SP(02/03/2021)



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