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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Tr.C.M.P.No.544 of 2020
and
C.M.P.No.14361 of 2020

C.Senthilvel

... Petitioner

vs.

The Anbanathapuram Vahiyara Charities,
Represented by its Chairman,
14 Dubas Street,
Thiruindalur,
Mayiladuthurai.

... Respondent

PRAYER : Transfer CMP is filed under Section 24 of the Civil Procedure Code, to withdraw the suits vide O.S.68 of 1948 as amended in O.S.17 of 1960 as amended in O.S.234 of 1994 on the file of the Principal Subordinate Judge at Mayiladuthurai and to transfer the same to the Hon'ble Principal Subordinate Judge, Thanjavur or any other Courts having competent jurisdiction in nearby towns for the limited purpose of the selection process of the Member of the AVC College Committee from the Members of the AV Charities.

For Petitioner : Mr.A.Ganapatheeswaran

For Respondent : Mr.M.Santhanaraman

O R D E R

The relief sought for in the present Transfer Civil Miscellaneous Petition is to withdraw the suits vide O.S.68 of 1948 as amended in O.S.17 of 1960 as amended in O.S.234 of 1994 on the file of the Principal Subordinate Judge at Mayiladuthurai and to transfer the same on the file of the Hon'ble Principal Subordinate Judge, Thanjavur.



2. The learned counsel appearing on behalf of the petitioner contended that the Principal Subordinate Judge, Mayiladuthurai is having certain Pre-judicial view and therefore, the petitioner is not willing to conduct the case before the Principal Sub Court at Mayiladuthurai and therefore, the present transfer petition is filed.

3. The very same petitioner earlier filed TR.CMP.No.170 of 2020 and to transfer the very same suit before the Principal Sub Court, Thanjavur. In the said transfer petition, this Court passed an order on 11.03.2020 and the relevant portion of the order is extracted hereunder:

"5.Having regard to the submissions made by the learned counsel on either side, without disturbing the pendency of the suit in O.S.No.68 of 1948 as amended in O.S.No.17 of 1960 as subsequently amended in O.S.No.234 of 1994 pending on the file of the Principal Subordinate Court, Mayiladuthurai, I transfer the proceedings pertaining to the appointment of Trustees to the Charities to the file of the Additional District Court, Mayiladuthurai. The Additional District Judge, Mayiladuthurai shall make the appointments within a period of four weeks from the date of receipt of a copy of this order. The Additional District Judge is also directed to provide copy of the objections filed by the parties to both sides on filing of copy application.

6.With these observations, the Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed."

4. Pursuant to the order, all further proceedings are initiated by the Principal Sub Judge, Mayiladuthurai. After passing of the order, on 18.12.2020, the present Transfer Civil Miscellaneous petition is filed to transfer the entire suit to the Principal Sub Court, Thanjavur.

5. Merely raising question regarding the view taken by the learned Judge cannot be considered as an acceptable ground for the purpose of transfer of the suit. Various allegations raised deserves no merit consideration as the petitioner has not set out any acceptable ground for the transfer of the suit. In view of the fact that the suit is pending. The original suit was filed in the year 1948, which was amended in the year 1960 and thereafter, further amended as



O.S.No.234 of 1994, this Court is of the considered opinion that transferring of the case from the Principal Sub Court, Mayiladuthurai to Thanjavur will cause prejudice to the issues to be decided.

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6. In this view of the matter, the petitioner has not established any acceptable ground for the purpose of transfer of the suit and accordingly, this Transfer Civil Miscellaneous Petition No.544 of 2020 stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Kak
To

- 1.The Principal Subordinate Judge,
Mayiladuthurai.
- 2.The Subordinate Judge,
Thanjavur.

Copy to

The Section Officer,
VR Section, High Court,
Madras.

+1cc to A.Ganapatheeswaran, Advocate Sr.18562

Tr.CMP No.544 of 2020

mg[co]
srg 15/04/2021