



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :16.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P. (MD) No.42 of 2021
and
C.M.P. (MD) No.943 of 2021

Vijaya Boopathi

... Petitioner/1st Defendant

-vs-

1.Pon Karthick

2.Natarajan

...1st & 2nd Respondents/Plaintiffs

3.Thiruppathi

... 3rd Respondent/2nd Defendant

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the suit in O.S.No.44 of 2017 on the file of the Additional District Munsif Court, Dindigul, Dindigul District to transfer the same to the Additional Sub Court, Dindigul, Dindigul District along with O.S.No.62 of 2017 for conducting joint trial.

For Petitioner : Mr.G.Gomathi Sankar

For Respondents : Mr.R.J.Karthick

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the suit in O.S.No.44 of 2017 on the file of the Additional District Munsif Court, Dindigul, Dindigul District to transfer the same to the Additional Sub Court, Dindigul, Dindigul District along with O.S.No.62 of 2017 for conducting joint trial.

2.The learned counsel for the petitioner submits that the petitioner has filed a suit in O.S.No.62 of 2017 before the Additional Sub Court, Dindigul District for injunction and declaration. The respondents 1 and 2 have filed O.S.No.44 of 2017 for injunction against the petitioner and 3rd respondent herein. The learned counsel further submits that the suit property, the parties and cause of action in both cases are one and the same and therefore, both suits may be tried together.



3. The learned counsel for the respondents submits that the petitioner has already filed Tr.O.P.No.143 of 2017 before the Principal District Court, Dindigul and the same was dismissed. Without challenging the same, the petitioner has filed the present Transfer Civil Miscellaneous Petition before this Court and therefore, the same is not maintainable and the same is liable to be dismissed. According to the learned counsel for the respondents/plaintiffs, the cause of action in both suits is different. Further, the learned counsel for the respondents submits that the suit in O.S.No44 of 2017, chief examination is completed and the suit is pending for cross-examination and therefore, there could not be joint trial.

4. Though the learned counsel for the respondents vehemently opposed for conducting joint trial, he has agreed to conduct both the suits simultaneously before the same court.

5. This Court is satisfied with the reasons assigned in the affidavit filed in support of this petition. To avoid conflicting judgments, this Court is inclined to direct the concerned court to try the suits simultaneously.

6. In view of the same, O.S.No.44 of 2017 is withdrawn from the file of Additional District Munsif Court, Dindigul District and transferred to the file of the Additional Sub Court, Dindigul District to be tried simultaneously with O.S.No.62 of 2017 for disposal as per law. The Additional District Munsif, Dindigul District is directed to transmit the papers to the Additional Sub Court, Dindigul District forthwith. The Additional Subordinate Judge, Dindigul District is directed to dispose both suits on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order.

7. In fine, this petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T & P)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

To:

1. The Additional District Munsif,
Dindigul District



2. The Additional Subordinate Judge,
Dindigul District

+1 CC to M/s.G.GOMATHI SANKAR, Advocate (SR-16094[F] dated
16/04/2021)

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-16221[F] dated 17/04/2021)

Tr.C.M.P. (MD) No.42 of 2021
and
C.M.P. (MD) No.943 of 2021
Dated:
16.04.2021

MA (19.05.2021) 3P 5C