



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.132 of 2021

and

C.M.P. (MD) No.2583 of 2021

WEB COPY

M.Meenatchi ... Petitioner/1st defendant

Vs.

1.A.Vellachi ... 1st Respondent/Plaintiff

2.S.Malaichami

3.I.Subramanian

4.S.Ravindra Pandiyan

5.The Sub-Registrar,

Mahal Road,

Madurai South,

Madurai.

... Respondents 2 to 5/ defendants 2 to 5

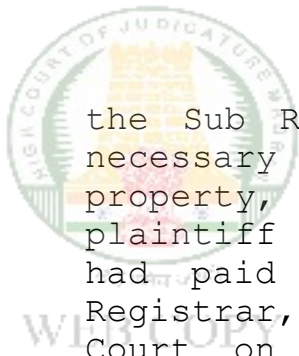
PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w.151 of the Code of Civil Procedure, to withdraw the O.S. No.53 of 2019 on the file of the II Additional Subordinate Court, Madurai, and to transfer the same to any other Subordinate Court of Madurai District Court campus or any other competent Court, other than the II Additional Subordinate Court, Madurai.

For Petitioner : Mr.M.Pandian
For 1st Respondent : Mr.T.C.S.Thillainayagam
For Respondents 2 to 4 : Mr.V.Santhakumaresan
For 5th Respondent : Mr.R.Baskar,
Government Advocate

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the suit in O.S. No.53 of 2019 on the file of the II Additional Subordinate Court, Madurai, and to transfer the same to any other Subordinate Court of Madurai District Court campus or any other competent Court, other than the II Additional Subordinate Court, Madurai.

2.The learned counsel for the petitioner would submit that the petitioner is the first defendant in O.S.No.53 of 2019 pending on the file of the II Additional Subordinate Court, Madurai. The petitioner/first defendant has filed the written statement on 03.10.2019 and the first respondent/ plaintiff has also filed the proof affidavit in the suit. The fifth defendant,



the Sub Registrar, Madurai South, is one of the important and necessary witness to resolve the dispute in the suit scheduled property, who has registered the document questioned by the plaintiff in the suit. Therefore, the petitioner/ first defendant had paid witness batta on 03.03.2021 for summoning the Sub Registrar, Madurai South, and the same was rejected by the Trial Court on 03.03.2021 without any valid or sufficient reason. Therefore, the petitioner/first defendant had filed a copy application for obtaining the order to approach this Court by way of Civil Revision Petition, the copy application is still pending and not made ready, whereas, the Trial Court without affording time to the petitioner to approach the Appellate Forum had insisted the defendants in the suit to let in evidence and also compelled the petitioner/ first defendant to get along with the trial stating that "No Further Adjournments" will be given. There is a reasonable apprehension that the trial Judge is biased and thereby the present application is filed seeking for transfer.

3.The learned counsel for the first respondent / plaintiff would submit that in order to drag on the proceedings/trial, the petitioner/ first defendant has filed such a petition before the Trial Court. Despite the petition being dismissed on 03.03.2021, the petitioner has not taken any steps to file Civil Revision Petition till date, whereas, he is bent upon taking adjournments, after adjournments and he has also made allegation against the concerned Presiding Officer and as on date, the fact remains that the concerned Presiding Officer has been transferred.

4.Heard the learned counsel on either side and perused the materials available on records.

5.The petitioner/ first defendant without pursuing the copy application and taking steps for filing Civil Revision Petition, has filed this present Transfer Miscellaneous Petition. The insistence of the trial Judge to get along with the trial cannot be taken as that the trial Judge is biased. The apprehension is imaginary and is not reasonable. The conduct of the petitioner having not taken any steps to approach the higher forum by filing the revision discloses that the intention is only to protract and delay the suit. The Transfer Civil Miscellaneous Petition lacks merits and deserves to be dismissed.

6.At this juncture, the learned counsel for the first respondent/ plaintiff would submit that the plaintiff is aged about 80 years and an octogenarian and thereby, a direction may be issued to the Trial Court for completing the trial as expeditiously as possible.



7. In the result, this Transfer Civil Miscellaneous Petition is dismissed. However, the II Additional Subordinate Judge, Madurai, is directed to dispose of the suit in O.S.No.53 of 2019 on merits and in accordance with law, as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1.The II Additional Subordinate Court,
Madurai.

+1 CC to M/s.I.MURUGESAN, Advocate (SR-28265[F] dated 06/09/2021)

Tr.C.M.P. (MD) No.132 of 2021
06.09.2021

NA(CO)

SB(17.09.2021) 3P 3C