



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No. 488 of 2019

and

C.M.P. (MD) No.11373 of 2019

WEB COPY

1. Minor. Surya
2. Minor. Naren
Rep. by natural guardian- Mother
V.Meena

... Petitioners

Vs.

1. M.Thangarathinam
2. Dr.P.Sankari

... Respondents

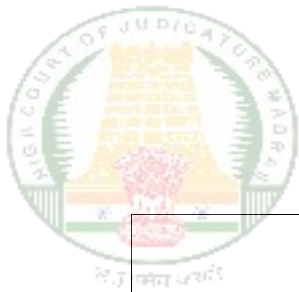
PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w. Section 151 of the Code of Civil Procedure, to withdraw the proceedings pending in O.S.No.43 of 2018 from the file of the Principal District Court, Karur and transfer the same to the III Additional District and Sessions Court, Tiruchirapalli and try the same along with O.S.No.69 of 2017.

For Petitioners : Mr.K.Suresh
For Respondents : Mr.Niranjana Kumar

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the proceedings pending in O.S.No.43 of 2018 from the file of the Principal District Court Karur and transfer the same to the III Additional District and Sessions Court, Tiruchirapalli and try the same along with O.S.No.69 of 2017.

2.The learned counsel for the petitioner would submit that the petitioners have filed O.S.No.43 of 2018 on the file of the Principal District Court, Karur seeking for injunction restraining the defendants in any manner alienating the suit property till the final adjudication of O.S.No.69 of 2017 on the file of the III Additional District and Sessions Court, Tiruchirapalli. He would further submit that the suit in O.S.No.69 of 2017 has been filed by the first respondent before the III Additional District and Sessions Court, Tiruchirapalli for partition. Several properties are common in both suits and thereby the decision in either of the suit will have a bearing in the other suit and hence in order to avoid multiplicity of proceedings and avoid conflicting judgments, the present petition has been filed seeking for transfer and joint trial. A Memo of Chart showing the common features in both the suits, has been filed for easy reference.



WEB COPY

Memo of Chart filed on behalf of the petitioners

	O.S.No.69 of 2017 on the file of the Additional District and Sessions Court, Tiruchirapalli	O.S.No.43 of 2018 on the file of the Principal District Court, Karur	Remarks
Status of Parties in the Trs.O.P	Petitioners are the defendants 2 to 4 in the suit The 1st respondent in the Plaintiff in the suit The 2nd respondent is the 1st defendant in the suit	Petitions are the Plaintiffs in the suit The Respondents are the defendants in the suit	
Nature of Relief Sought for	Partition and for a direction to account the Income from the suit properties	Permanent injunction restraining the defendants from alienating the properties till the disposal of O.S.No.69 of 2017	



WEB COPY

Common Properties to both suits	Item No.1 Item No.2 Item No.3 Item No.4 Item No.5 Item No.6 Item No.7 Item No.8 Item No.9 Item No.10 Item No.11 Item No.12 Item No.13 Item No.14 Item No.15 Item No.16 Item No.17 Item No.18 Item No.19 Item No.20 Item No.21 Item No.22 Item No.23 Item No.24 Item No.25 Item No.26 Item No.27 Item No.28 Item No.29 Item No.30 Item No.31 Item No.32, 33 Item No.34 Item No.35 Item No.36 Item No.37	Item No.51 Item No.58 Item No.20 Item No.21 and 22 Item No.23, 24, 25 Item No.26, 27, 28 Item No.29 Item No.30, 32, Item No.33, 34 Item No.35 Item No.36 Item No.37 Item No.11 Item No.38 Item No.12 Item No.39 Item No.17 Item No.48 Item No.38 -- Item No.17 -- Item No.14 --- Item No.13 Item No.19 Item No.18 -- ---- --- Item No.55 Item No. 43, 44, 45, 46 Item No.41, 42 Item No.40, 47 Item No.52, 53, 54	
	Item No.38 Item No.39 Item No.40-45	--- Item No.56, 57 Item No.1, 9a, 2, 4, 6, 7, 9 and 59	

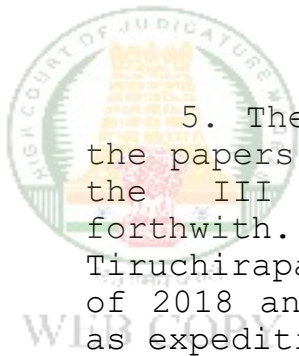


WEB COPY

Properties not covered under Common category	S.F.Nos.843/1C, 844/9B, 844/8B, 844/9C& 844/6	S.F.No.1234 S.F.No.1253 S.F.No.298 S.F.No.146 S.F.No.425 S.F.No.1361,1366/1 S.F.No.108/1,3 S.F.No.624 S.F.No.414/3 S.F.No.483/4 482/1,469/1A S.F.Nos.285/2,3,4,5,7 and 286/2 S.F.Nos.293	
Issue between parties	Plaintiff claims partition on the basis of inheritance contesting Defendant resisting the claim on the basis of Will	Plaintiff claims permanent injunction on the basis of a title derived through Will It has been contested by the defendants that the Will is forged one	

3. The learned counsel for the respondents would submit that though reliefs sought for are different, it is admitted that most of the properties overlap in both cases. He would further submit that the respondents have no objection in the case now pending on the file of the Principal District Court, Karur being transferred to the file of the III Additional District and Sessions Court, Tiruchirapalli. He would also submit that the suit filed by the first respondent in O.S. No.69 of 2017 is for larger extent and thereby the case has to be necessarily transferred to the file of the III Additional District and Sessions Court, Tiruchirapalli. He would further submit that the first respondent is aged about 70 years and thereby a direction may be issued to the III Additional District and Sessions Court, Tiruchirapalli for speedy disposal of the case.

4. Considering the facts and circumstances of the case and also considering the submission made by the learned counsel appearing on either sides, the suit in O.S.No.43 of 2018 is withdrawn from the file of the Principal District Court, Karur and transferred to the file of III Additional District and Sessions Court, Tiruchirapalli to be tried along with O.S.No.69 of 2017 pending on its file for disposal as per law.



5. The Principal District Court, Karur is directed to transmit the papers in O.S.No. 43 of 2018 pending on its file to the file of the III Additional District and Sessions Court, Tiruchirapalli, forthwith. The III Additional District and Sessions Court, Tiruchirapalli, is directed to dispose both the suits in O.S.No.43 of 2018 and O.S.No.69 of 2017 on merits and in accordance with law as expeditiously as possible.

6. In the result, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

aav

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 Principal District Judge
The Principal District Court, Karur.
2. The III Additional District and Sessions Judge
The III Additional District and Sessions Court,
Tiruchirapalli

+1 CC to M/s.NIRANJAN S KUMAR, Advocate (SR-29153[F] dated 15/09/2021)

Tr.C.M.P. (MD) No. 488 of 2019
and
C.M.P. (MD) No.11373 of 2019
14.09.2021

ES (CO)
KB(23.09.2021) 5P 4C