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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Tr.C.M.P.No.392 of 2021
and
C.M.P.No.9084 of 2021

D.Chandrammal

.. Petitioner

Vs.

1.P.Kalaiselvi
2.S.Kanchanan
3.B.Arivukodi
4.P.Sathiya
5.P.Nishanthi
6.P.Nivetha
7.S.RamaAshokan
8.V.Allirani
9.P.Vishwanathan

.. Respondents

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure, praying to withdraw the O.S.No.148 of 2018 on the file of Additional District Munsif, Thirupathur and transfer to Additional District Munsif, Ambur.

For Petitioner : M/s.Nathan and Associates

For Respondent : Mr.S.A.Rajkumar

O R D E R

The petitioner, who is the 1st defendant in O.S.No.120 of 2013 now re-numbered as O.S.No.148 of 2018 seeks transfer of the said suit from the Additional District Munsif Court, Thirupathur to the Additional District Munsif Court, Ambur.

2. The suit was originally filed for partition and separate possession of the plaintiffs' 4/6th share in the suit property as O.S.No.120 of 2013 on the file of the District Munsif Court, Vaniyambadi. The 2nd defendant who is the purchaser from the 1st



defendant has also filed written statement and he is contesting the suit.

3. While the suit was pending before the District Munsif Court, Vaniyambadi, an application for transfer was filed by the 2nd defendant in the suit in Tr.O.P.No.36 of 2014 on the file of the Principal District Court, Vellore seeking transfer of the suit to any other Court, making certain allegations against the Presiding Officer. The said Tr.O.P. was dismissed by the learned Principal District Judge, Vellore on 8th December 2015, on the ground that a ex parte preliminary decree has been granted and thus, the transfer petition has become infructuous.

4. Subsequently, the learned Principal District Judge, Vellore by way of an administrative order dated 19.09.2017 transferred the suit to the Additional District Munsif Court, Tirupattur for speedy disposal in accordance with law. Thereafter, the proceedings went on before the Additional District Munsif Court, Tirupattur for nearly 3 years now. It is at this stage, the petitioner, who is the 1st defendant in the suit has come up with the transfer petition seeking transfer of the suit to Additional District Munsif Court, Ambur.

5. The learned counsel appearing for the petitioner would submit that the petitioner is aged about 80 years and therefore she is unable to conduct trial by travelling to Tirupattur.

6. The learned counsel for the 7th respondent, who is the 2nd defendant in the suit would oppose transfer petition contending that it is by way of an administrative order, the suit was transferred to Additional District Munsif Court, Tirupattur and the trial Court has also commenced trial. He would contend that the 1st defendant having sold the property to him, has now colluded with her daughters, who are plaintiffs and is attempting to delay the trial of the suit and force him to come to terms. The learned counsel would submit that the trial of the suit is at a advanced stage and the transfer at this stage would further delay the proceedings.

7. Considering the fact that the transfer was made by administrative order by the learned Principal District Judge, Vellore, to the Additional District Munsif Court, Tirupattur with a direction for speedy disposal, I do not think this request for transfer made by the petitioner could be entertained. I see some force in the contention of the counsel for the 7th respondent that the petitioner is trying to delay the proceedings only to help her daughters who are the plaintiffs.

8. Therefore, I do not see any reason to accept the request for transfer. Hence, this Transfer Civil Miscellaneous Petition



is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(LA)

//True Copy//

Sub Assistant Registrar

dsa

To

1. The Additional District Munsif,
Thirupathur.

+1cc to M/s.Nathan and Associates, Advocate, S.R.No.2125

Tr.C.M.P.No.392 of 2021

UM(CO)
SU(31/01/2022)