



Tr.C.M.P.No.492 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.12.2022

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.492 of 2021 and
C.M.P.Nos.13272 of 2021 & 5927 of 2022

1. M/s Rajam Estates (P) Ltd.,
rep. By its M.D.Nalini Selvaraj
2. Nalini Selvaraj
3. Amirtharaj Selvaraj
4. Anandaraj Selvaraj
5. Gnanaraj Duraisamy

... Petitioners

Vs.

1. K.M.Stalin
2. K.H.Gurunath

... Respondents

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C., to withdraw and to transfer the O.S.No.77 of 2018 pending on the file of learned Additional District Judge, Hosur to the file of any other District Judge.

For Petitioner : Mr.P.Gunaraj

For Respondents : Mr.T.C.Gopalakrishnan for R1
Served – No appearance for R2



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ORDER

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The present Transfer Civil Miscellaneous Petition has been filed to withdraw and to transfer the O.S.No.77 of 2018 pending on the file of learned Additional District Judge, Hosur to the file of any other District Judge.

2. The 1st respondent, who is the plaintiff, has filed a suit in O.S.No.77 of 2018 for specific performance directing the defendants, who are the petitioners and 2nd respondent, to execute the sale deed in favour of the 1st respondent, in pursuance to the Memorandum of Understanding dated 05.09.2011 after receiving balance sale price and to pass an Interim Injunction. Pending suit, I.A.No.175 of 2018 was filed seeking ad-interim injunction by the plaintiff / 1st respondent and a counter was also filed by the petitioners / defendants. Subsequently I.A.No.258 of 2018 was filed by the petitioners to pass an order to reject the plaint. However, without any change in the circumstances on account of COVID – 19 and even without deciding the petition, ie., to reject the plaint, the learned Judge before the court below has passed an order granting interim injunction, hence this petition has been filed by the petitioner seeking for transfer of the said case.



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3. The learned counsel for the petitioners would submit that though the learned counsel for the 1st respondent sought for an adjournment on 19.04.2021 stating that the counsel, who could argue the matter was under quarantine, however, without expressing the reasons, has passed an interim order in favour of the 1st respondent. Apprehending that the petitioners will not get a fair decision in the above matter before the court below, the petitioners have come forward with this petition.

4. Heard the learned counsel for the 1st respondent on the submissions of the learned counsel for the petitioners. Though notice was ordered to the 2nd respondent and name has been printed in the cause list, there is no representation for the 2nd respondent either in-person or through learned counsel.

5. On a perusal of the entire documents placed on record, it is seen that vide Notification in R.O.C. No. 1363/2020/RG/Sub.Courts with reference to the O.M.in ROC.No.1363/2020/RG/Sub.Courts dated 01.02.2021, it is stated that all Principal District Judges / District Judges in the State in Tamilnadu and the Chief Judge, Puducherry are hereby instructed to take necessary steps for opening of Law Chambers inside the



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premises of the Subordinate Courts in the State of Tamil Nadu and Union Territory of Puducherry w.e.f., 22nd March, 2021, after proper sanitization through the concerned should strictly follow the COVID-19 Protocol and if the same is not followed, or if there is any spurt in cases in future, the Principal District Judges / District Judges in the State of Tamilnadu and the Chief Judge, Puducherry concerned may take appropriate steps depending upon the local requirement / prevailing situation, under intimation to the High Court.

6. Further, vide reference with the same ROC number, through another Official Memorandum dated 15.04.2021, it is stated that even though the situation in Tamilnadu may be better than other places in the country, so as to ensure that immediate preventive measures are taken to arrest the further spread of the pandemic, on the request of the State Government, to take appropriate immediate measures so that the footfall in the court buildings is reduced considerably, has ordered, all the Principal District Judges / Principal Judge in the State of Tamilnadu and the Chief Judge, Puducherry were directed to ensure (1) Access to the court buildings in the subordinate courts shall be restricted, unless the presence of the parties / litigants are called by the courts. (2) All lawyers chambers in



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the Subordinate Courts shall be closed from 17.04.2021 (Saturday) until further orders. (3) The Libraries in all the Bar Associations shall remain closed until further orders (4) All District Courts should scale down functioning till April 30, 2021. (5) The situation will be reviewed on 22.04.2021 for further directions (6) This official memorandum supersedes the official memorandum issued in the reference cited and all other earlier official memorandum on the above subject.

7. Apart from the above, since there is no improvement in the pandemic situation, on 22.04.2021, a direction was issued that the earlier Official Memorandum shall continue until further orders. Thereafter, on 17.05.2021, since there is steady surge in Covid-19, in order to prevent further spread of infection, the Judicial officers and staff members of all the subordinate courts in the State of Tamilnadu and Union Territory of Puducherry are instructed not to attend Court except to the extent absolutely necessary, except for remand purposes and other unavoidable matters, all litigants and lawyers are prohibited entry into the Court complexes in all the subordinate courts. Also on 02.07.2021, the earlier mode of functioning was directed to continue, however, with certain modifications, viz., no witness were directed to be examined on physical



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mode till 18.07.2021, bar associations and canteens shall remain closed until further orders.

8. When it is clear from the above said proceedings that there was a strict protocol being initiated on account of Covid-19 through Official Memorandum on various dates and the same being relaxed from time to time and the case being adjourned from 30.07.2018 to 19.04.2021, before the court below and on 19.04.2021, the court below has recorded that the counsel on record is under quarantine, however, proceeded to grant Interim Injunction, that too when the strict protocol is in force, which states that *'In continuation of the Official Memorandum of the High Court dated 15.04.2021 in the reference cited, since there is no improvement in the pandemic situation in the State of Tamilnadu and Union Territory of Puducherry, and on 15.04.2021, it is stated that 1) Access to the court buildings in the subordinate courts shall be restricted, unless the presence of the parties / litigants are called by the courts. (2) All lawyers chambers in the Subordinate courts shall be closed from 17.04.2021 (Saturday) until further orders. (3) The Libraries in all the Bar Associations shall remain closed until further orders (4) All District Courts should scale down functioning till April 30,2021. (5) The situation will be reviewed on*



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22.04.2021 for further directions (6) *This official memorandum supersedes all the earlier memorandum.* While that being the case, it is not known as to how the learned Judge, before the court below has granted an interim stay on the same day, viz., 19.04.2021 that too without assigning any proper reasons, when the suit has been filed on 07.05.2018, I.A.No.175 of 2018 has been filed on 21.08.2018, counter to the said I.A filed in November, 2018.

9. In view of the above, though the petitioner has not sought the relief of setting aside the order dated 19.04.2021 in I.A.No.175 of 2018, this Court, taking note of the above said circumstances in a wholesome manner and also considering the fact that the same has been passed without assigning any reasons, is inclined to set aside the Interim Injunction order passed in I.A.No.175 of 2018 on 19.04.2021 and allow the present Civil Revision Petition.

10. Accordingly, the present Civil Revision Petition is allowed and the proceedings [O.S.No.77 of 2018 and connected Interlocutory Applications, I.A.Nos.175 and 258 of 2018] pending in the file of Additional District Court, Hosur is hereby transferred to learned Additional District



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Judge, Krishnagiri. Further, the learned Additional District Judge, Krishnagiri is directed to re-hear the pending proceedings, viz., O.S.No.77 of 2018 and connected Interlocutory Applications, I.A.Nos.175 and 258 of 2018 and pass orders on merits and in accordance with law. Consequently, connected miscellaneous petitions are closed. No costs.

19.12.2022

Index : Yes/No
Internet : Yes/No
Speaking /Non-Speaking Order
ssd

To

1. The Additional District Court,
Hosur
2. The Additional District Judge,
Krishnagiri.



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V.BHAVANI SUBBAROYAN, J.,

ssd

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