



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

TR CMP No.500 of 2021
and CMP No.13525 of 2021

Sri Narasu's Coffee Company Pvt. Ltd.,
Rep. by its
Managing Director P.Sivanantham,
No.16, Court Road, Johnsonpet,
Salem - 636 007.

... Petitioner

Vs

1.M.Pranuthi
2.S.Mayakannan
3.Dr.N.Easwaran
4.Dr.Venkar Ramesh
5.Mohamed Jafar

... Respondents

(R2 to R5 impleaded vide Court order
dated 15.12.2021 made in CMP.No.18166 & 18169 of 2021)

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, pleased to withdraw and transfer O.S.No.163 of 2021 pending on the file of I Additional District Judge, Madurai to the II Additional District Judge, Salem or any competent Court, to try the same at Salem.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel
for Mr.I.Arokiasamy
For Respondents : Ms.D.Chitra Maragatham

O R D E R

The petitioner seeks transfer of O.S.No.163 of 2021 on the file of the I Additional District Court, Madurai to the II Additional District Court, Salem to be tried along with O.S.No.50 of 2012, which is pending before the said Court.

2.The suit in O.S.No.50 of 2012 has been filed by the petitioner herein as the plaintiff seeking a declaration that the properties set out in the plaint of which the suit property is shown as item No.13 belong to the plaintiff namely, Sri Narasu's Coffee Company Private Limited, for delivery of possession and for other reliefs.



3.The case of the plaintiff in the said suit is that the properties that was standing in the name of Narasu's Coffee Company Private Limited as well as the family members were transferred to the present plaintiff namely, Sri Narasu's Coffee Company for valuable consideration and therefore, the plaintiff in O.S.No.50 of 2012 is the owner of the properties.

4. The first respondent herein had filed a suit seeking declaration of her title to the property which is shown as item No.13 in O.S.No.50 of 2012 and for permanent injunction. The said suit has been filed before the Additional District Court, Madurai and numbered as O.S.No.163 of 2021. The petitioner herein is the 2nd defendant in the said suit. The plaintiff in O.S.No.163 of 2021 seeks a declaration of her title on the strength of a Will, said to have been executed by Mrs.Vasantha, her paternal grandmother on 02.10.1992. It is the claim of the plaintiff that Vasantha died on 28.06.1993 and parents of the plaintiff died on 07.07.1993. Therefore, as per the Will of Vasantha dated 02.10.1992, the plaintiff would inherit the property as heir of her parents.

5.Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the petitioner would contend that the title to the property is at issue in both the suits. The suit in O.S.No.50 of 2012 is the prior suit which has been pending for nearly 10 years now. The suit in O.S.No.163 of 2021 has been filed very recently. Therefore, according to the learned counsel at least to avoid conflicting judicial verdicts, the suit in O.S.No.163 of 2021 should be transferred to Salem to be tried along with O.S.No.50 of 2012.

6.The learned Senior Counsel would also point out that the present plaintiff herself has filed a suit in O.S.No.27 of 2009 seeking recovery of rent in respect of the property at Madurai, which is item No.13 of the schedule in O.S.No.50 of 2012 and the only property in O.S.No.163 of 2012 at Salem and the said suit has been dismissed.

7. I am not going into the merits of the matter, the dismissal of O.S.No.27 of 2009 is referred only to demonstrate that the present plaintiff in O.S.No.163 of 2021 herself had earlier invoked the jurisdiction of the Salem Court when she sued for arrears of rent.

8.M/s.Chitra Maragatham, learned counsel appearing for the respondents would however contend that the property being situated at Madurai, the Court at Madurai would be the proper Court for trying O.S.No.163 of 2021. I am unable to accept the submissions of the learned counsel appearing for the respondents. A comprehensive suit in O.S.No.50 of 2012 is



already pending in the Courts at Salem, wherein the title to the very same property is in issue. In O.S.No.163 of 2021 also the plaintiff asserts title to the property. If these two suits are tried separately, there is possibility of there being conflicting judicial verdict. At least to avoid such conflict both the suits must be tried at one place.

9.M/s.Chitra Maragatham would point out that the plaintiff in O.S.No.163 of 2021 is not a party to the suit in O.S.No.50 of 2012. Mr.AR.L.Sundaresan would submit that she has been impleaded. Even otherwise, I do not think that the absence of the plaintiff in O.S.No.163 of 2021 in the party array in O.S.No.50 of 2012 would be a hindrance to this Court exercising the power under Section 24 to transfer the suit to be tried along with the other suit.

10.In view of the above, I am of the considered opinion that both the suits should be tried together at the same Court. O.S.No.50 of 2012 being a previously instituted suit and a comprehensive suit including several properties situated all over Tamilnadu, the suit in O.S.No.163 of 2021 should be transferred to II Additional District Court, Salem to be tried and disposed of along with O.S.No.50 of 2012. The Transfer Civil Miscellaneous Petition is allowed. The suit in O.S.No.163 of 2021 is withdrawn from the file of the I Additional District Court, Madurai and transferred to the II Additional District Court, Salem to be tried and dispose of along with the suit in O.S.No.50 of 2012. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vs
To

1.The I Additional District Court, Madurai.

2.The II Additional District Court, Salem.

+1cc to Mr.I.Arokiasamy, Advocate, S.R.No.4065

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AD(CO)
CT 10/02/2022