



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Tr.C.M.P.No.714 of 2022

and

C.M.P.No.12148 of 2022

Mrs.N.Karpagam

... Petitioner

Vs.

S.Balasundaram

... Respondent

Prayer: Transfer CMP is filed under Section 24 of the Civil Procedure Code, to withdraw and transfer the Suit in O.S.No.164/2016 pending Trial on the file of the Learned Principal District and Sessions Judge, Chengalpet to Thiruvallur District Court.

For Petitioner : Mr.K.Balasubramaniam

For Respondent : Mr.N.Selvarajan



ORDER

The Transfer Petition is filed to withdraw and transfer the Suit in O.S.No.164/2016 pending Trial on the file of the Learned Principal District and Sessions Judge, Chengalpet to Thiruvallur District Court.

2. The suit was instituted by the respondent for specific performance and permanent injunction. The petitioner states that the approach of the Learned Principal District Judge at Chengalpet towards the counsel appearing for the petitioner has created an issue and therefore, the petitioner is of an opinion that the Learned Judge is biased.

3. The petitioner in her affidavit has stated that the Learned Trial Court Judge abused the petitioner in an unparliamentary language in open Court and threatened her that she will put her behind bars for making such submissions before her. Mere statement in this regard is insufficient, in view of the fact that certain circumstances would have created unpleasantness in the Court Hall even at the instance of the litigants. Litigants at some point of time are breaking down and using some language, which would have created an issue in the Court, which would result in passing of certain remarks against the litigants by the Learned Judge. Such remarks made during the



course of hearing, if unintentional cannot be viewed seriously. Whenever, the Presiding Officer made certain remarks against the litigants in an unintentional manner, the same cannot be construed as biased approach or otherwise.

4. Court rooms are for debating the issues. Lawyers are the Court Officers. Debate and transparency in debate is the Hallmark for the purpose of conducting the cases in Court rooms. In the absence of debate, Court will not be in a position to deliver good judgments. During the course of debate, due to temperament, even some lawyers cause certain words or aspirations, which cannot be equally viewed by the Courts seriously. Thus, it is mutual discussion in the Court Hall for the benefit of the litigants and to render complete justice to the parties, who all are approaching the Court.

5. So long as there is no motive or intention either on the part of the Presiding Officer or on the part of the Lawyer, the incidents occurring in a litigation or in a litigative process cannot be otherwise taken into seriously for the purpose of initiating action or to file a transfer petition to transfer the case. If such transfer petitions are entertained in a routine manner, it may



not be possible for the Judicial Officers to conduct the judicial proceedings in free and fair manner for the purpose of rendering justice.

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6. In the present case, except blanket statement, there is no specific instance has been established by the petitioner. Such statements made without any evidence cannot be considered for the purpose of transferring the case. Perusing the circumstances, this Court is of the considered opinion that there was no intention or motive on the part of the Learned Principal Judge, if at all any remarks were made and therefore, this Court is not inclined to consider the transfer petition and the petitioner has to conduct the case in the manner known to law.

7. Accordingly, the Transfer Civil Miscellaneous Petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

06.12.2022

Jeni
Index : Yes
Speaking order



To

1. The Principal District and Sessions Judge,
Chengalpet.

2. The Judge,
District Court,
Thiruvallur.

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S.M.SUBRAMANIAM, J.

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