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C.R.P.No.3810 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:22.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3810 of 2022
and C.M.P.No.20030 of 2022

M.D.Sivakumar

...Petitioner

Versus

1. Pushpa K.Fomra

2. Bank of India

Rep. by its Chief Manager,
No.17/30, Errabalu Chetty Street,
Chennai - 600 001.

3. The Sub Registrar,
Office of the Sub Registrar,
Tiruvottiyur,
Chennai - 600 019.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, pleaded that the return order dated 10.08.2022 in Tr.O.P.S.R.No.13919 of 2022, returning the above petition may be set aside and the learned Principal Judge, City Civil Court, Chennai, be directed to number the Transfer Petition Tr.O.P.S.R.13919 of 2022 and dispose it on merit.

For Petitioner : M/s.S.Jabeen
for M/s.Menon

For Respondents : Dr.S.Suriya
Additional Government Pleader
(for R3)



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O R D E R

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The Civil Revision Petition is filed challenging the order of the return dated 10.08.2022 made in Tr.O.P.S.R.13919 of 2022 returning the transfer petition.

2. The first respondent herein filed a suit for declaration that sale deed dated 23.06.2018 registered in favour of the second defendant and other documents executed by the second defendant in favour of the first defendant subsequent to the sale deed dated 23.06.2008 were null and void and for consequential injunction. The petitioner herein filed a written statement raising a counter claim seeking declaration of his title. The counter claim was valued at Rs.35,00,000/-. The learned XX Assistant Judge, returned the counter claim on the ground of pecuniary jurisdiction. Thereafter, the petitioner herein filed a petition seeking transfer of suit in O.S.No.6031 of 2018 pending on the file of the learned XX Assistant Judge, City Civil Court to the file of the learned Principal Judge, City Civil Court, Chennai.

3. In support of his prayer in the transfer petition, the revision petitioner has stated that since, the learned XX Assistance Judge, City Civil Court, is not having pecuniary jurisdiction to entertain his counter claim, if the suit is



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transferred to the learned Additional Judge, City Civil Court, he can very well entertain the counter claim. Therefore, the main suit pending on the file of the learned XX Assistant Judge, City Civil Court has to be transferred to any other learned Additional Judge, City Civil Court. If the counter claim filed by the revision petitioner is out of the pecuniary limits of the learned XX Assistant Judge, City Civil Court, it is open to him to explore the other possibilities in law. It is not open to the revision petitioner to seek transfer of the suit mainly on the ground that value of the counter claim filed by the revision petitioner exceeds the pecuniary limits of the City Civil Judge. Therefore, the transfer petition filed by the revision petitioner is not maintainable and the same was rightly returned by the Court below.

4. In view of the above, this Court does not find any error or irregularity in the order passed by the Court below. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.11.2022

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Index: Yes/ No

Speaking Order / Non-Speaking Order



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S.SOUNTHAR, J.

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To

1. The learned Principal Judge,
City Civil Court, Chennai.
2. The learned XX Assistant Judge,
City Civil Court, Chennai.
3. The learned Additional Judge,
City Civil Court, Chennai.

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