



TR.C.M.P(MD).No.497 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.497 of 2022

and

C.M.P(MD).No.7920 of 2022

B.Antony Joseph

... Petitioner

versus

1. M.Maria Justina

2. M.Deepthi

3. M.Shamilli

... Respondents

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw and transfer the Probate O.P.No.22 of 2022 on the file of the Principal District Court, Tiruvallur to be heard and tried on the file of the Principal District Court, Dindigul, for disposal of the same on merits and in accordance with law.

For Petitioner : Mr.T.Palanisamy

For Respondents : Mr.K.Neethimohan



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ORDER

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This Transfer Civil Miscellaneous Petition is filed to transfer the Probate O.P.No.22 of 2022 from the file of Principal District Court, Tiruvallur, to the file of Principal District Court, Dindigul.

2. The learned counsel appearing for the petitioner submits that the petitioner as well as the respondents are residing at Dindigul and Vadipatti and the properties are also situated at Dindigul District. However, for the reasons best known, the respondents have filed Probate O.P.No.22 of 2022, before the Principal District Court, Tiruvallur. Since the petitioner finds it difficult to engage a counsel at Thiruvallur and follow up the case, he requests for transfer of Probate O.P.No.22 of 2022, from the file of Principal District Court, Tiruvallur, to the file of the Principal District Court, Dindigul. He further submits that on the very same property, the petitioner has also filed a suit in O.S.No.146 of 2022, before the Sub Court, Palani.



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3. The learned counsel appearing for the respondents submits that though the respondents are residing at Vadipatti, the witnesses of the Will and other two witnesses are residing at Chennai and therefore, the Probate O.P.No.22 of 2022 was filed before the Principal District Court, Tiruvallur. He further submits that one of the witnesses is a Bishop and if the case is transferred to the Principal District Court at Dindigul, it will be very difficult for him to come and appear before the Court at Dindigul.

4. This Court considered the rival submissions and perused the materials available on record.

5. The respondents have instituted the above Probate O.P.No.22 of 2022 before the Principal District Court, Tiruvallur, on the convenience of the witnesses, who are residing at Chennai. The respondents claim that one of the witnesses is a Bishop and if the case is transferred to the Principal District Court, Dindigul, it will be very



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difficult for him to come and appear before the Court at Dindigul.

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6. Admittedly, both the petitioner and the respondents are residing at Madurai and Dindigul and the properties are also situated at Dindigul. The witnesses, knowing the consequences of the decision, signed as witnesses to the Document. Therefore, they must be prepared to come and appear before any Court of law, either at Tiruvallur or at Dindigul.

7. Considering the fact that the subject matter of the property is situated at Dindigul and the petitioner and the respondents are also residing at Dindigul and Vadipatti, this Court is inclined to transfer the Probate O.P.No.22 of 2022 from the file of Principal District Court, Tiruvallur, to the file of Principal District Court, Dindigul.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and the Probate O.P.No.22 of 2022 pending on the file of the



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Principal District Court, Tiruvallur, is withdrawn and ordered to be transferred to the file of Principal District Court, Dindigul. The Principal District Court, Tiruvallur, is directed to transmit the entire case records to the Principal District Court, Dindigul, forthwith. No costs. Consequently, connected miscellaneous petition is closed.

25.11.2022

Index : Yes / No

Internet: Yes / No

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To

1. The Principal District Court,
Tiruvallur.
2. The Principal District Court,
Dindigul.



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B.PUGALENDHI, J.

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