



Tr.C.M.P(MD).No.85 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD).No.85 of 2017

and

C.M.P(MD).No.2176 of 2017

J.Anandhavalli

... Petitioner

versus

1. Muthupandi
2. Guruvammal @ Guruselvi
3. Kannan
4. Karuppiah
5. Maheswari
6. Arunkumar
7. Sudha
8. Murugan
9. Balaguru
10. Krishnan
11. Chellammal @ Chellathammal (died)
12. Sundararajan
13. Muthumeena
14. Vajayachamundeeswari
15. Mala
16. Rani
17. Latha



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18. Meenakshi
19. Sowmiya Prasanth
20. Indirani
21. Mallika
22. Nagajothi
23. Vijayalakshmi
24. Thaneswari
25. Meenakshi
26. Sundarathai
27. Velupillai (died)
28. M.V.Ravi
29. Ramalakshmi

... Respondents

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw the suit in O.S.No.236 of 2009 from the file of District Munsif Court, Thirumangalam and transfer the same to the file of I Additional District Court, Madurai, to be tried along with O.S.No. 111 of 2010 within a time fixed by this Court.

For Petitioner	: Ms.K.R.Shivashankari
For R1	: Mr.N.Vallinayagam
F2 to R28	: No appearance

ORDER

The petitioner, who is the defendant in O.S.No.236 of 2009, has filed this Transfer Civil Miscellaneous Petition, seeking transfer of



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O.S.No.236 of 2009 from the file of District Munsif Court, Thirumangalam, to the file of I Additional District Court, Madurai, to be tried along with O.S.No.111 of 2010.

2. The learned counsel appearing for the petitioner submits that the first respondent herein has filed a suit in O.S.No.236 of 2009 before the District Munsif Court, Thirumangalam, against the petitioner for extinguishment of mortgage and for recovery of possession, claiming that he is the legal heir of one Vadivammal, who is his maternal grandmother. The petitioner has also filed a written statement in the suit in O.S.No.236 of 2009. Thereafter, the first respondent along with the second respondent herein filed another suit in O.S.No.111 of 2010 before the First Additional District Court, Madurai, seeking partition. In that suit, there are 19 defendants and the petitioner herein is arrayed as 10th defendant. The petitioner and other defendants have also filed their written statement in that suit. Now, both the suits are ripe for trial. The core issue to be decided in both the suits is as to whether the



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respondents 1 and 2 are the legal heirs of Vadivammal and without deciding the said issue, the respondents 1 and 2 cannot prosecute the above suits. Further, in both the suits, all the parties are one and the same. Therefore, it is necessary to try both the suits for joint trial. Hence, the petitioner seeks for transfer of O.S.No.236 of 2009 from the file of District Munsif Court, Thirumangalam, to the file of I Additional District Court, Madurai, to be tried along with O.S.No.111 of 2010.

3. The learned counsel appearing for the first respondent submits that the petitioner seeks transfer of the suit within the District. Therefore, the remedy available for the petitioner is to file a transfer application before the concerned Principal District Court. However, the petitioner, without resorting to the said remedy, straight away filed this Transfer Civil Miscellaneous Petition before this Court. He has also relied upon a Common Order passed by this Court in Tr.C.M.P. (MD)Nos.378 and 383 of 2022 on 08.09.2022.



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4. It appears that the petitioner seeks transfer of the suit within the District. Since the petitioner is having the remedy before the concerned Principal District Court, she shall seek the remedy before the Principal District Court, Madurai.

5. Accordingly, the Transfer Civil Miscellaneous Petition is disposed of with liberty to the petitioner to file a transfer petition before the Principal District Court, Madurai. No costs. Consequently, connected miscellaneous petition is closed.

04.11.2022

Index : Yes / No
Internet: Yes / No
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To

1. The District Munsif Court,
Thirumangalam.



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