



WEB COPY



Tr. CMP. No.40 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM :

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

TR.CMP No.40 of 2023
and C.M.P.No.1185 of 2023

Minor Lakshana (Aged 11 years)
Rep by her guardian/mother
Mrs.Selvi

.... Petitioner

-Vs-

1. S.Nandhakumar
2. K.Sellamuthu
Raguvel (died)
3. Subramani
4. Anandhakumar

.... Respondents

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C., to withdraw the case in O.S.No.258 of 2015 on the file of Sub Court, Pollachi to transfer the same to Sub Court, Dharapuram in O.S.No.241 of 2015 for Joint trial.

For Petitioner : Mr.B.Gopalakrishnan

For R1 and R2 : Mr.C.Ramaraj

For R3 and R4 : Ms.S.Akila



Tr. CMP. No.40 of 2025

ORDER

WEB COPY

This petition has been filed by the petitioner seeking to withdraw the case in O.S.No.258 of 2015 on the file of Sub Court, Pollachi and to transfer the same to Sub Court, Dharapuram, to try along with O.S.No.241 of 2015.

2. The learned counsel for the petitioner submitted that the petitioner is represented by her mother and the both suit properties belongs to the respondents 1 and 2 and the properties are the ancestral properties. Further, she filed the suit in O.S.No.258 of 2015 before the Sub Court, Pollachi for the relief of partition , permanent injunction and declaration against the respondents and also filed another suit in O.S.No.241 of 2015 before the Sub Court, Dharapuram for the very same relief against the respondents 1 and 2. Further, they submitted that the plaintiff, defendants, witnessess and properties are one and the same. Hence, they pray to allow this petition.

3. The learned counsel for the respondents 1 and 2 stated that they have objection to allow this petition.



4. The learned counsel appearing for the respondents 3 and 4 have submitted that both suits are different and parties also differ. So, there is no necessity for transfer the suit in O.S.No.258 of 2015 to Sub Court, Dharapuram. Therefore, they prayed for dismissal of this petition.

5. Admittedly, there is a dispute between the husband and wife, but the wife claimed maintenance in M.C.No.23 of 2015 pending before the Judicial Magistrate No.1, Udumalpet which is at the stage of trial. Now, the second respondent is the purchaser of the property from the father of the minor/plaintiff. As per the plaint averment, the minor/plaintiff is having the share in the ancestral properties. If both cases are transferred joint trial is conducted, no prejudice would be caused to the respondents.

6. Considering the facts and circumstances of the case and also taking into account the fact that the reasons stated by the petitioner is justifiable, the present Tr.C.M.P. is allowed and O.S.No.258 of 2015 pending on the file of Sub Court, Pollachi, is withdrawn and transferred to the file of Sub Court, Dharapuram, to be jointly tried along with O.S.No.241 of 2015. Consequently, connected miscellaneous petition is closed. No costs.



WEB COPY



Tr. CMP. No.40 of 2023

T.V.THAMILSELVI, J.

msrm

7. The Sub Court, Dharapuram, is directed to issue notice to the respondents and dispose of the case as expeditiously as possible.

17.10.2023

Speaking / Non Speaking order
Neutral Citation : Yes/No
Index : Yes/No
msrm

To

1. The Sub Court, Pollachi.
2. The Sub Court, Dharapuram.

TR.CMP No.40 of 2023
and C.M.P.No.1185 of 2023