



Tr.C.M.P. No. 813 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :.31.08.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P. No. 813 of 2023

and

C.M.P.No.19705 of 2023

M. Madhaiyyan

...Petitioner

.Vs.

1. Arulprakasam

2. R. Ranjithkumar.

..Respondents

Prayer: This Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw the case in O.S.No.2 of 2021 pending on the file of III Additional District Court, Salem and the same may be transferred to the Hon'ble Principal District Court at Namakkal and pass orders.

For Petitioner : Mr.M. Madhaiyyan



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ORDER

This petition is filed seeking a direction to withdraw the case in O.S.No.2 of 2021 pending on the file of III Additional District Court, Salem and the same may be transferred to the Principal District Court at Namakkal.

2. The facts of the case is that the petitioner is the defendant in O.S.No.2 of 2021 which is filed by the respondents herein for the relief of specific performance to execute the sale deed in favour of them on the basis of Sale Agreement dated 27.09.2019. The grievance of the petitioner is that the Sale Agreement was executed on 27.09.2019, whereas the stamp paper reveals the date 01.10.2019. When this being case the plaintiff/respondents herein filed an I.A.No.1 of 2021 for temporary injunction and I.A.No.2 of 2021 for reject of plaint in the suit and also filed CrI.M.P.No.324 of 2021 under Section 340(1) r/w 195(1)(b)(i) of Cr.P.C to proceed action against the Respondents herein for committing offence of insist the action against the plaintiff for using the evidence as true which known to them as false. The respondents herein has also filed I.A.No.1 of 2022 to amend the prayer in



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the plaint. The learned Judge without passing any orders in the amendment application has passed orders in I.A.No.2 of 2021 and CrI.M.P.No.324 of 2021 on 06.08.2022 and 26.08.2022 respectively. It is pertinent to note that without passing orders in the amendment petition the learned Judge has passed orders in other applications and insisting the petitioner to file counter in the other applications filed by him. Hence this petition.

3. The petitioner herein who has appeared as party in person before this Court submitted that the learned Judge without passing orders in the amendment application ought to have not passed orders in other applications. He further submits that if the amendment petition is either allowed or dismissed there will be an legal impediment in executing the orders already passed in other petitions. He further submitted that initially the case was filed before the II Additional District Judge and on my request the same was transferred to III Additional District Court, Salem. Hence he prays this Court to transfer the case again to the principal District Judge, Salem.



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4. On going through the facts of the case it is seen that admittedly this petition was filed by the petitioner only on the ground that the hierarchy to be adopted while disposing the I.A's is in not proper. Further more in I.A.No.2 of 2021. the petitioner has disputed about the variation of dates in stamp paper and the sale agreement, which aspect ought to have argued only at the time of trial in the suit and not by filing the I.A's. Hence, this Court is of the view that the learned Judge, Court below is well aware of the legal procedures to be followed and he has done accordingly while passing orders in the I.A's filed by the petitioner as well as the respondent. However the learned Judge has given a fair chance for the petitioner to file counter in the Temporary injunction application. The petitioner has misconstrued the legal system and filed this petition.

5. In view of the above, the learned Judge III Additional District Court, Salem is directed to dispose of the O.S.No.2 of 2021 as expeditiously as possible after passing orders in all the Interlocutory Applications.



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6. With the above directions, this Transfer Civil Miscellaneous Petition is disposed of. No order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No

Internet: Yes/No

To.

1. The Principal District Court at Namakkal



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V.BHAVANI SUBBAROYAN,J.
Smn

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