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Tr CMP (MD) No. 124 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Tr.C.M.P.(MD) No.124 of 2023

and

CMP(MD)No.2770 of 2023

Kannan

... Petitioner/Defendant

-VS-

1.Mookan

2.Sannasi

... Respondents/Plaintiff

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in O.S.No.30 of 2020 on the file of District Munsif Court, Bodinayakanur, Theni District and to transfer the same to on the file of Sub Court, Theni District and try along with suit in O.S.No.357 of 2022 pending before the said Court.

For Petitioner : Mr.D.Balamurugapandi

ORDER

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in O.S.No.30 of 2020 on the file of District Munsif Court, Bodinayakanur, Theni District, and transfer the same to the file of Sub Court, Theni District.



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2.The respondents herein has filed O.S.No.30 of 2020 before the District Munsif Court at Bodinayakanur for permanent injunction. After filing written statement in the said suit, the petitioner herein has filed O.S.No.357 of 2022 against the respondents herein originally before the District Munsif Court at Bodinayakanur. However, on account of pecuniary jurisdiction, the suit was later represented before the Sub Court, Theni. The petitioner has not only prayed for transfer of suit but also prayed for declaration of title over the suit property in respect of much earlier proceedings, which has been initiated in O.S.No.30 of 2020 before the District Munsif Court at Bodinayakanur, by the respondents herein. The petitioner therefore seeks transfer of O.S.No.30 of 2022 to the Sub Court, Theni for a joint trial along with the suit in O.S.No.357 of 2022.

3.It is seen that there are two rival suits. One was filed by the respondent herein in O.S.No.30 of 2022 against the petitioner and another one was filed by the petitioner herein in O.S.No.357 of 2022 against the respondent. This is a fit case for transferring the case to the same Court for common trial in both the suits.



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4. Considering the fact that the trial has already commenced in O.S.No.30 of 2022 before the District Munsif Court at Bodinayakanur, a suit in O.S.No.357 of 2022 pending on the file of the Sub Court, Theni, is directed to be transferred to the District Munsif Court at Bodinayakanur, for common trial. The Sub Court, Theni, is directed to transmit the papers to the District Munsif Court at Bodinayakanur, forthwith. The District Munsif Court at Bodinayakanur, is directed to dispose the suit in O.S.No.357 of 2022 along with the suit in O.S.No. 30 of 2022 on merits and in accordance with law.

5. With the above direction, the Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

06.03.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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C.SARAVANAN, J.

dss

To:

- 1.The District Munsif Court,
Bodinayakanur, Theni District.
2. The Sub Court,
Theni District.

Order made in
Tr.C.M.P.(MD) No.124 of 2023
and
CMP(MD)No.2770 of 2023

Dated:

06.03.2023