



Tr.C.M.P(MD)Nos.183 and 184 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.06.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

Tr.C.M.P(MD)Nos.183 and 184 of 2023

and

C.M.P(MD)Nos.4002 and 4003 of 2023

Tr.C.M.P(MD)No.183 of 2023

P.Oyyammal

...Petitioner/2nd Defendant

Vs.

1.Muthupillai

...Respondent/Plaintiff

2.2.Ramakrishnan

...Respondent/1st Defendant

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of Code of Civil Procedure, to withdraw the O.S.No.277 of 2022 pending before the District Munsif Court, Melur and transfer the same to the Principal District Judge, Madurai or any competent Court.

For Petitioner : Mr.M.Ramu

For R1 : Mr.S.A.Ajmal Khan



Tr.C.M.P(MD)Nos.183 and 184 of 2023

Tr.C.M.P(MD)No.184 of 2023

P.Oyyammal

...Petitioner/2nd Defendant

Vs.

1.Krishnaveni

...Respondent/Plaintiff

2.2.Ramakrishnan

...Respondent/1st Defendant

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of Code of Civil Procedure, to withdraw the O.S.No.295 of 2022 pending before the District Munsif Court, Melur and transfer the same to the Principal District Judge, Madurai or any competent Court.

For Petitioner : Mr.M.Ramu

For R1 : Mr.S.A.Ajmal Khan

COMMON ORDER

Tr.C.M.P(MD)No.183 of 2023 has been filed to transfer O.S.No. 277 of 2022 on the file of the District Munsif Court, Melur to the file of the learned Principal District Judge, Madurai.

2. Tr.C.M.P(MD)No.184 of 2023 has been filed to transfer O.S.No.295 of 2022 on the file of the District Munsif Court, Melur to the file of the learned Principal District Judge, Madurai.



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3. There are multiple proceedings that are pending before the District Munsif Court, Melur in O.S.No.295 of 2022 filed by one Krishnaveni, W/o.Ramesh @ Oyyappan and O.S.No.277 of 2022 by one Muthuppillai. Both the suits have been filed for bare injunction.

4. A parallel proceeding for partition of the property is now pending before the Principal District Court, Madurai in O.S.No.270 of 2022 at the behest of the petitioner herein. The petitioner therefore seeks transfer of O.S.No.295 of 2022 filed by one Krishnaveni and O.S.No.277 of 2022 filed by one Muthuppillai before the District Munsif Court, Melur to the learned Principal District Judge, Madurai.

5. It is submitted that the dispute pertains to the same property in respect of which the first respondent, the respective plaintiff in the suit mentioned above before the District Munsif Court, Melur has sought for bare injunction. Therefore, submits that in the fitness of the thing and to avoid multiplicity of the proceedings, pleased the Court to transfer O.S.Nos.295 and 277 of 2022 to the Principal District Court, Madurai to be tried along with O.S.No.270 of 2022 (formerly O.S.No.298 of 2022).



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6. The learned counsel for the first respondent in Tr.C.M.P(MD)No.184 of 2023, namely, Krishnaveni, the plaintiff in O.S.No.295 of 2022 submits that the first respondent is not a party to the proceedings in O.S.No.270 of 2022 (formerly O.S.No.298 of 2022) pending on the file of the Principal District Court, Madurai for partition of the suit schedule property. The learned counsel for the first respondent in Tr.C.M.P(MD)No.184 of 2023 who also represent the interest of the first respondent in Tr.C.M.P(MD)No.183 of 2023, namely, Muthupailai, the plaintiff in O.S.No.277 of 2022 further submits that by transferring these two cases to the Principal District Court, Madurai, the respondent would lose the rights of the first appeal. That apart, it is submitted that the cause of action for the suit for bare injunction and for partition of the property are totally different and therefore, on this count also, the transfer civil miscellaneous petitions are liable to be dismissed.

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the first respondent.



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8. The dispute pertains to the property in respect of which the first respondent in either of the transfer civil miscellaneous petitions (the plaintiff in the respective suits before the District Munsif Court, Melur) are one and the same and are covered by the schedule in the property in O.S.No.270 of 2022 (formerly O.S.No.298 of 2022).

9. Considering the fact that the several properties are involved, these Transfer Civil Miscellaneous Petitions stand allowed by transferring both the suits in O.S.Nos.277 and 295 of 2022 pending on the file of the District Munsif Court, Melur to the Principal District Court, Madurai to be tried along with O.S.No.270 of 2022 (formerly O.S.No.298 of 2022) on the file of the Principal District Court, Madurai. No costs. Consequently, connected miscellaneous petitions are closed.

08.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To
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- 1.The District Munsif Court,
Melur.
- 2.The learned Principal District Judge,
Madurai.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN ,J.

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