



Tr.C.M.P(MD)No.486 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.03.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Tr.C.M.P(MD)No.486 of 2022

and

C.M.P(MD)No.7779 of 2022

Jayachitra

... Petitioner/2nd Defendant

Vs.

1.Kennedy

...Respondent/Plaintiff

2.Rajathi

...Respondent/1st Defendant

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of Code of Civil Procedure, to withdraw O.S.No.280 of 2021 on the file of the learned Additional District Court (FTC), Tenkasi and transfer the same to the file of the learned III Additional District Judge, Tirunelveli for joint trial along with O.S.No.267 of 2021.

For Petitioner : Mr.K.Navaneetharaja

For R1 : Mr.K.P.Narayanakumar

For R2 : No Appearance



Tr.C.M.P(MD)No.486 of 2022

ORDER

WEB COPY

The present transfer civil miscellaneous petition has been filed seeking to transfer O.S.No.280 of 2021 pending on the file of Additional District Court (FTC), Tenkasi to III Additional District Court, Tirunelveli for a joint trial along with O.S.No.267 of 2021.

2. O.S.No.280 of 2021 has been filed by one Jesudasan Kennedy as against his sisters claiming declaration of title on the basis of a Will said to have been executed by his mother on 10.07.2020. One of the sisters had filed O.S.No.267 of 2021 before District Court, Tirunelveli seeking partition of the same items of the property alleging that the said Will is not true and valid. Therefore, it is clear that both the suits have to be tried together to avoid conflicting decisions.

3. The learned counsel for the petitioner submitted that both the sisters are residing in Tirunelveli and the brother is residing in Chennai. None of the parties to both the suits are residing in Tenkasi. He further pointed out that out of 3 schedule of items, 2 of the properties are located within the jurisdiction of Tirunelveli and the rest of them are located



Tr.C.M.P(MD)No.486 of 2022

within the jurisdiction of Tenkasi. Therefore, according to the petitioner, for the convenience of all the parties, the declaration suit that is pending before the Additional District Court, Tenkasi may be transferred to III Additional District Court, Tirunelveli to be tried along with O.S.No.267 of 2021 which was filed for partition.

4. Per contra, the learned counsel appearing for the 1st respondent/plaintiff in the declaration suit had contended that few of the properties are located in Tenkasi and the same may be retained in Tenkasi and O.S.No.267 of 2021 pending on the file of the District Court, Tirunelveli may be transferred to Tenkasi.

5. I have carefully considered the submissions made on either side.

6. Considering the fact that both the suits have to be tried together and the parties are living either in Tirunelveli or in Chennai, this Court is inclined to transfer O.S.No.280 of 2021 pending on the file of Additional District Court (FTC), Tenkasi to be transferred to III Additional District Court, Tirunelveli for a joint trial along with O.S.No.267 of 2021.



Tr.C.M.P(MD)No.486 of 2022

7. With the above said observations, this Transfer Civil Miscellaneous Petition stands allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

02.03.2023

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

gbg

To

- 1.The Additional District Court (FTC),
Tenkasi.
- 2.The III Additional District Judge,
Tirunelveli.
- 3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Tr.C.M.P(MD)No.486 of 2022

R.VIJAYAKUMAR ,J.

gbg

Order made in
Tr.C.M.P(MD)No.486 of 2022

02.03.2023