



TR.C.M.P(MD).No.723 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.723 of 2022

and

C.M.P(MD).No.11447 of 2022

A.K.Ahamed

... Petitioner

v.

1.Abdul Rahman

2.Vijaya Lakshmi

... Respondents

Transfer Civil Miscellaneous Petition filed under Section 151 CPC to withdraw the case in O.S.No.163 of 2019 pending before the Principal District Munsif Court, Madurai and transfer the same to the file of V Additional District Court, Madurai and to try the same along with O.S.No.102 of 2020 pending on the file of the said Court.



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For Petitioner : Mr.M.Ajmal Khan,
Senior Counsel
for M/s.Ajmal Associates

For Respondents : No appearance

ORDER

According to the petitioner, he purchased the suit schedule property from the second respondent by a registered sale deed dated 26.02.2019, vide Doc.No.1551/2019. However, in respect of the said property, the first respondent has filed a suit in O.S.No.163 of 2019 as against the second respondent, before the Principal District Munsif Court, Madurai, for permanent injunction, on the ground that there was an unregistered sale agreement between him and the second respondent's husband, namely, Ragavan, on 17.05.2015 for the sale of the suit property and a sum of Rs.65,00,000/- was also paid as advance. Alleging that the second respondent, after the demise of her husband, failed to honour the transaction, the first respondent has filed the suit.



2. According to the petitioner, even before the institution of the suit in O.S.No.163 of 2019 by the first respondent, the petitioner has purchased the property vide a registered sale deed. After the institution of the suit, the first respondent trespassed into the property and in this regard, a criminal case was registered in Cr.No.16 of 2021 on the file of the Anti Land Grabbing Cell, Madurai, for the offence under Sections 448, 465, 468, 471, 506(i) IPC. Though the petitioner purchased the property much prior to the institution of O.S.No.163 of 2019, he was not impleaded as a party and therefore, he has filed I.A.Nos.298 & 299 of 2019 and got himself impleaded as a defendant in the suit. Simultaneously, the petitioner has also instituted a suit in O.S.No.102 of 2020 before the V Additional District Court, Madurai, for recovery of possession and injunction, as against the first respondent.

3. Learned Senior Counsel appearing for the petitioner submitted that the parties to the suit in O.S.Nos.163 of 2019 & 102 of 2020 are one and the same and the subject property is also one and the same. Therefore, in order to avoid multiplicity of proceedings and conflicting decisions, the petitioner has filed this application to transfer the suit in O.S.No.163 of 2019 pending on



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the file of Principal District Munsif Court, Madurai to the file of V Additional District Court, Madurai and to try the same along with the suit in O.S.No.102 of 2020.

4. There is no representation for the respondents.

5. Considering the fact that the parties to the *lis* and the subject property involved are one and the same, this Court, without expressing any opinion on the allegations and on the merits of the case, is inclined to allow this application for transfer and for joint trial. Since the suit in O.S.No.163 of 2019 was filed earlier, the suit in O.S.No.102 of 2020 pending before the V Additional District Court, Madurai, is hereby withdrawn and ordered to be transferred to the file of the Principal District Munsif Court, Madurai.

6. The learned Judge, V Additional District Court, Madurai, is directed to transmit the entire case records pertaining to the suit in O.S.No.102 of 2020 to the file of the Principal District Munsif Court, Madurai, forthwith. The learned Principal District Munsif, Madurai, shall try both the suits in



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O.S.Nos.163 of 2019 & 102 of 2020 [transferred suit] together and shall dispose of the same, in accordance with law, as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

This transfer civil miscellaneous petition stands allowed in the above terms. No costs. Consequently, connected miscellaneous petition stands closed.

Index : Yes / No
Internet: Yes / No
gk

23.01.2023

To

1. The Judge,
V Additional District Court,
Madurai.
2. The Principal District Munsif,
Madurai.



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B.PUGALENDHI, J.

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