



Tr.C.M.P.No.229 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2024

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Tr.C.M.P.No.229 of 2022

and

C.M.P.No.4666 of 2022

C.Krishnaa (died)

1. M.Chellappan
S/o Murugaiya Vinjirayar

2. C.Prema,
W/o M.Chellappan

(cause title accepted
vide court order dated 01.03.2022
made in CMP.No.2701 of 2022 in
Tr.CMP sr.No.8920 of 2022 by PTAJ)

... Petitioners

vs.

1. S.Santhi,
W/o Late K.Selvaraj

2. S.Sheela,
D/o Late K.Selvaraj

3. K.Palani
S/o Kothandanaicker

Petitioners 1 to 3 are represented by
their Power Agent Mr.M.Sudhakaran
S/o Muthuramalingam, Hindu,
aged about 42 years, and residing
at No.2A, Periyar Nagar, 2nd Street,
Adambakkam, Chennai - 600 088.



Tr.C.M.P.No.229 of 2022

4. M.Velu,
S/o V.Mani

5. L.Sivarajan,
S/o Lingeswaran

6. C.Sunilkumar,
S/o M.Chellappan

7. C.Gokulakrishnan
S/o M.Chellappan

..Respondents

Prayer in C.R.P. : Civil Revision Petition filed under Section 24 of CPC to transfer O.S.No.206 of 2019 pending on the file of the Additional District Munsif Court at Alandur to any Court of competent jurisdiction at Chennai City Civil Court for its due disposal.

For Petitioners : Mr.Srikanth
for Mr.S.Vinod

For Respondents : Mr.M.Thangadurai
for R1 to R5
No appearance for R6 & R7

ORDER

This Civil Revision Petition has been filed to transfer O.S.No.206 of 2019 pending on the file of the Additional District Munsif Court at Alandur to any Court of competent jurisdiction at Chennai City Civil Court for its due disposal.



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2. The brief facts of the case of the petitioners are as follows:

(i) The petitioners are the contesting defendants in the above suit and they got impleaded, in view of the death of the title holder of the suit property, C.Krishnaa/ 1st defendant, who is their youngest son, to whom they settled the suit property for his livelihood as he is an handicapped son.

(ii) The other defendants, C.Sunil Kumar and C.Gokulakrishnan are the petitioners' sons and they have no interest in the suit property. They are impleaded to complete the cause title as *Eo Nomine party* in this transfer petition, since they are defendants in the suit.

(iii) The suit property is situated at the suburban area and 200 feet radial road is running adjacent to the property. The plaintiffs S.Santhi and S.Sheela and K.Palani have filed the above suit through their power agent M.Sudhakaran and they obtained injunction. The plaintiffs 4 and 5 are the second purchasers to whom the plaintiffs have earlier sold the property. The defendants are adopting Goondaism and started causing trouble to the petitioners who are aged persons. They are forced to contest the suit at Alandur.

(iv) Further, the 2nd petitioner C.Prema had donated one kidney to her son, C.Krishnaa during his life time and she is undergoing lot of



health problems and thus, the petitioners are staying at Chennai and taking treatment for her acute knee problem. Hence, the present Transfer C.M.P. is filed.

3. Heard the learned counsel for the petitioners, learned counsel for the respondents 1 to 5 and perused the materials available on record.

4. From the plaint averment, it is seen that originally, the property measuring an extent of 6048 sq.ft belonged to Kothanda Naicker of S.Kulathur Village and after his demise, his three sons viz., Selvaraj, Rajendran and Palani got the said property and subsequently, the 1st son, Selvaraj died intestate on 6.6.1989 leaving behind his wife, Shanthi and only daughter Sheela as his legal heirs. The legal heirs of Selvaraj and other son of Kothanda Naicker, Mr.Palani jointly registered power of attorney deed in favour of M.Sudhakaran with full power for alienation and he was maintaining the property.

5. Subsequently, the said Shanthi, Sheela and Palani jointly sold the property through power agent M.Sudhakaran in favour of G.Jayajothi vide registered sale deed dated 5.10.2020. The 4th and 5th respondents



herein purchased the same from G.Jayajothi vide registered sale deed dated 19.03.2021 measuring 4032 sq.ft. out of 6048 sq.ft being 2/3rd share from two sons of Kothandaraman Naicker through their power agent.

6. As per the counter filed by the 4th respondent, it is seen that the 4th and 5th respondents herein purchased the remaining 1/3rd share owned by the remaining son of Kothandaraman Naicker viz., K.Rajendran measuring an extent of 2016 sq.ft. by virtue of sale deed dated 23.11.2020. Thus, the 4th and 5th respondents are in possession of the subject property and running Car accessories show room in the name and style of 'Friends Car Accessories'.

7. It is noted that the vendor of the 4th and 5th respondents had already filed a suit and got an order of injunction against the petitioners' sons viz., C.Krishnaa (who died during the pendency of the suit), C.Sunil Kumar and C.Gokula Krishnan in I.A.No.677 of 2019 in O.S.No.206 of 2019 before the Additional District Munsif Court at Alandur on 28.06.2019. The aggrieved party filed an appeal before this Court to cancel the suit in CRP.No.2252 of 2019 and the same was dismissed by



this Court by order dated 14.11.2019.

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8. Further, the petitioners' son late C.Krishnan had filed a separate suit in O.S.No.421 of 2011 against the vendor of the 4th and 5th respondents herein viz., Mr.K.Rajendran and the same was also dismissed by the learned Principal District Munsif Court at Alandur by judgment dated 04.10.2019. The petitioners' son have already lost their case as the competent court had given judgment in favour of the vendor of the 4th and 5th respondents herein. The 4th and 5th respondents were added in the suit in O.S.No.206 of 2019 as per the order dated 23.10.2021 in I.A.No.732 of 2021 in O.S.No.206 of 2019 by the learned Additional District Munsif Court at Alandur. The petitioners herein got impleaded in the suit in O.S.No.206 of 2019 after the demise of their son C.Krishnaa and the said suit is ripe for trial.

9. One of the grounds for seeking transfer of the suit is that the 2nd petitioner is taking medical treatment in Chennai and thus, the petitioners are staying in Chennai. However, there is no proof that the petitioners are presently staying in Chennai City for taking medical treatment. The property is situated at S.Kulathur Village, Sholinganallur Taluk within



Tr.C.M.P.No.229 of 2022

the jurisdiction of District Munsif Court at Alantur. According to the 4th and 5th respondents, they have filed a suit in O.S.No.400 of 2022 for declaration and injunction against the petitioners and one V.Kumar with whom the petitioners executed registered sale agreement dated 27.01.2021. Thus, apart from the present O.S.No.206 of 2019, a connected comprehensive suit in O.S.No.400 of 2022 was filed by the 4th and 5th respondents and the same is pending against the petitioners before the same Court. The allegation that the petitioners cannot appear before the Court to give evidence cannot be countenanced as there are other mode of recording evidence either through power agent or through court commission.

10. In view of the above discussion, this Court finds no valid reason to entertain this transfer petition. Accordingly, the Transfer Civil Miscellaneous Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.03.2024

Index :yes/No
Speaking /Non speaking order
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Tr.C.M.P.No.229 of 2022

J.NISHA BANU, J.

vsi

To

The Additional District Munsif Court
at Alandur

Tr.C.M.P.No.229 of 2022

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