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Tr.CMP.Nos.411, 414 and 430 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2024

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THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr.CMP.Nos.411, 414 and 430 of 2024

S.Sambandan

.. Petitioner in
all Tr.CMPs.

Vs.

C.Pushparani

.. Respondent in
Tr.CMP.No.411/2024

P.Deivasigamani

.. Respondent in
Tr.CMP.Nos.414 & 430/2024

Prayer in Tr.CMP.No.411 of 2024 : The Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer E.P.No.105 of 2010 in O.S.No.213 of 1993 pending on the file of the learned Subordinate Judge at Poonamallee to the file of the Execution Court at City Civil Court at Chennai for disposal in accordance with law.

Prayer in Tr.CMP.No.414 of 2024 : The Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer E.P.No.103 of 2010 in O.S.No.212 of 1993 pending on the file of the learned Subordinate Judge at Poonamallee to the file of the



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Execution Court at City Civil Court at Chennai for disposal in accordance with law.

Prayer in Tr.CMP.No.430 of 2024 : The Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer E.P.No.102 of 2010 in O.S.No.212 of 1993 pending on the file of the learned Subordinate Judge at Poonamallee to the file of the Execution Court at City Civil Court at Chennai for disposal in accordance with law.

For Petitioner : Mr.M.V.Seshachari
(in all Tr.CMPs.)

For Respondent : M/s.I.Navaneetha Rani
(in all Tr.CMPs.)

COMMON ORDER

These Transfer Civil Miscellaneous Petitions have been filed to transfer the proceedings in E.P.Nos.102, 103 and 105 of 2010 in O.S.Nos.212 and 213 of 1993 on the file of the learned Subordinate Judge at Poonamallee.

2. O.S.Nos.212 and 213 of 1993 are suits for specific performance of an agreement of sale. The said suits were dismissed on 28.06.2002. Thereafter, the appeals were preferred to this Court in A.S.Nos.196 and 197 of 2002 and which were decreed on 15.06.2010. A Special Leave to the Supreme Court was preferred and the same was granted and the Civil



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Appeal in Civil Appeal No.9006 of 2011 was disposed of on 12.10.2022.

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3. It is the case of the petitioner/deGREE holder that as per the decree granted by the Supreme Court, he has deposited the amount into the Court and thereafter, filed execution petitions for recovery of costs as well as the execution of the sale deed. The grievance of the decree holder is that though the decree has attained finality, till date the learned executing Court has been adjourning the matter without giving a finality to the litigation. Hence, he seeks for this transfer.

4. M/s.I.Navaneetha Rani, appearing on behalf of the judgment debtor and Mr.T.Mathi, who supports her, plead that the decree is vitiated by fraud and therefore, they have taken out an application under Section 47 of the Code of Civil Procedure. According to them, while Section 47 application is pending, the decree cannot be executed.

5. M/s.I.Navaneetha Rani would further submit that on account of the



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fact that she wants to let in evidence in the proceedings, the learned Judge has been adjourning the matter.

6. After hearing both sides, I am of the view that by transferring the execution proceedings to the file of the City Civil Court at Chennai, it will only increase the agony of the parties. In fact, if the Section 47 application is pending, it is better that the Court decides the issue at the earliest instead of prolonging the litigation on one ground of the other.

7. Taking into consideration the interest of both the parties and on the basis of the statement made by M/s.I.Navaneetha Rani that she will co-operate for completion of Section 47 proceedings before July 2024, I am inclined to direct the learned Subordinate Judge at Poonamallee to take up all the three execution petitions and also the Section 47 application filed by the judgment debtor and dispose of the same on or before 26.07.2024. He shall file a report to this Court on or before 29.07.2024.

8. It is made clear that as the parties are litigating for 30 years, the



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Court may proceed with the execution day-to-day and complete it and submit a report. In case, the learned Judge feels that any of the parties are attempting to drag on the proceedings, full discretion and liberty is granted to the learned Judge to reject such unnecessary adjournments and proceed in accordance with law. It is also made clear that no further extension of time will be granted to the learned Judge, the report has to reach this Court on or before 29.07.2024.

9. With the above directions, these Transfer Civil Miscellaneous Petitions stand dismissed. No costs.

10. Call the matter for compliance on 29.07.2024.

25.04.2024

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation: Yes/No



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V. LAKSHMINARAYANAN, J.

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To

The learned Subordinate Judge,
Poonamallee

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