



TR CMP No.505 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2024

CORAM

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

TR CMP No.505 of 2023

and

CrI.M.P.No.12067 of 2023

1.Anbazhagan
2.Rekha
3.Paappi
4.Jeyaraman
5.Chandra

... Petitioners

Vs.

1.Saravanan
2.Yashodha

...Respondents

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, 1908 to withdraw and transfer the suit in O.S.No.124 of 2020 pending on the file of the District Munsif Court, Polur, Thiruvannamalai District to the file of District Subordinate Court, Polur and tried jointly along with O.S.No.664 of 2022.

For Petitioners : Mr.T.Ananthasekar

For Respondents : Mr.V.R.Appaswamee



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ORDER

This Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the suit in O.S.No.124 of 2020 pending on the file of the District Munsif Court, Polur, Thiruvannamalai District to the file of District Subordinate Court, Polur and tried jointly along with O.S.No.664 of 2022.

2. The learned counsel for the petitioners/defendants submitted that O.S.No.124 of 2020 filed by the respondents/plaintiffs for bare injunction, but the petitioners/defendants filed O.S.No.664 of 2022 on the file of the Subordinate Judge, Polur for partition. Disputed property for both the cases are one and the same. Before the Court, the respondents had given new survey number in the suit property as S.No.144/61. In the suit O.S.No.664 of 2022, the petitioners had stated the old survey number corresponding to new survey number 144/4. The properties in the two suits are identical and for the same, the suit in O.S.No.124 of 2020 from the file of the District Munsif Court, Polur may be transferred to Subordinate Court Polur, and to be tried along with O.S.No.664 of 2022.

3. The learned counsel for the respondents submitted that Survey



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No.144/4 is the old one and the same has been now assigned 144/4 -56, 57, 58, 59, 60 & 61. Further, the respondent has no objection for transferring the case either to the District Munsif Court, Polur or to Subordinate Court Polur.

4. On a perusal of the records, it is noticed that the properties in the two suits are identical. The suit in O.S.No.124 of 2020 filed by the respondents/plaintiffs for bare injunction. The petitioners/defendants filed O.S.No.664 of 2022 on the file of the Subordinate Judge, Polur for partition of the suit schedule property. On perusal of adangal, the suit schedule property in Survey No.144/4, now assigned new Survey numbers. Both the suits have the same property.

5. Under these circumstances, in order to avoid conflict judgments and adjudicate the matter on merits, the suit in O.S.No.124 of 2020, pending on the file of the District Munsif Court, Polur is ordered to transfer to the Subordinate Court, Polur and to be tried along with O.S.No.664 of 2022 in the routine manner as early as possible. The Judge, District Munsif Court,



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Polur is directed to send the entire records to the Subordinate Court, Polur, within a period of two weeks from the date of receipt of a copy of this order.

6. With the above direction, the Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

04.03.2024

Index: Yes/No
Internet: Yes/No
rpl
To

1. The District Subordinate Court, Polur
2. The District Munsif Court, Polur, Thiruvannamalai District

V.SIVAGNANAM, J.,

rpl



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