



Tr.C.M.P.No.818 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

Tr.C.M.P. No. 818 of 2022

and

C.M.P. No. 14207 of 2022

1.Muthu Subramanian
2.K. Kalpana
3.Joshuva

... Petitioners

Vs.

1.Iyyappan
2.Priya
3.Kanniyappan
4.Nithiyanandhan
5.Sowndarya
6.Aishwarya
7.Bhuvaneshwari

... Respondents

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C., praying to withdraw the petition in I.P.No.2 of 2021 on the file of Sub Court at Thiruvannamalai and transfer to Sub Court at Tambaram or any other Court within the jurisdiction of the residence of the petitioner and thus render justice.



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For Petitioners : Mr. S. Vijayakumar

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the petition in I.P.No.2 of 2021 on the file of the Subordinate Court at Thiruvannamalai and transfer to Subordinate Court at Tambaram or any other Court within the jurisdiction of the residence of the petitioners in the interest of justice.

2. On perusal of the case record, it appears that on 30.08.2022 notice was ordered to the respondents.

3. Learned counsel for the petitioners submit that as notice to the respondent No.1 is unserved, this Court by order dated 26.02.2024 directed him to take out notice to the respondents 1, 3 and 7 to their counsel appearing in the lower Court. Accordingly, notice was served on the respondent No.1 and a proof of memo was filed to that effect.



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4. On perusal of the record, it appears that the respondents 2 and 3 unclaimed notice and the notice sent to the respondent No.7 is returned with endorsement “no such addressee”. Notice to respondents 4, 5 and 6 were served. As such, the learned counsel for the petitioners submit that notice was served on the respondents 1, 4 to 6. The notice “unclaimed” by respondents 2 and 3 and the notice returned with endorsement to respondent No.7 as “no such addressee” has to be treated as deemed service.

5. The Hon'ble Apex Court and various High Courts time and again declared that the notice “unclaimed” by the parties has to be treated as deemed service. It is also held by the Hon'ble Apex Court that it is duty of the parties to inform to the postal department about change of their address or they are leaving the place of the stay for a particular period. As per the learned counsel for the petitioners, respondent No.1 is the contesting party. In spite of service of notice, there is no appearance in-person or through counsel.



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6. Under these circumstances, this Court is of the considered opinion that the respondents are not interested to prosecute the case to oppose the request made by the petitioners for transfer.

7. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and the I.P.No.2 of 2021 pending on the file of Subordinate Court, Thiruvannamalai is hereby withdrawn and transferred to the Subordinate Court at Tambaram. The Subordinate Court, Thiruvannamalai, shall transmit the entire record in I.P.No.2 of 2021 pending on his file to the Subordinate Court at Tambaram, forthwith, by duly indexed.

8. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

06.06.2024

Index : Yes / No

Neutral Citation : Yes / No

AT

Note: Issue order copy within three days.



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- To
- 1.The Sub Court, Thiruvannamalai.
 - 2.The Sub Court at Tambaram.



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BATTU DEVANAND, J.

AT

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