



A.No.3744 of 2024 in T.O.S No.9 of 2015

A.A.NAKKIRAN.,J

This application has been filed by the applicant/2nd defendant to withdraw and transfer the suit in O.S No.355 of 2024 on the file of the Principal District and Sessions Judge, at Tiruvallur to be tried along with the above Testamentary Original Suit in T.O.S No.9 of 2015.

2. The 4th respondent had refused to receive the notice and hence, the 4th respondent is called absent and set exparte.

3. The learned counsel for the applicant/2nd defendant submitted that the subject property in O.S No.355 of 2024 and in the pending T.O.S No.9 of 2015 are one and the same and also the parties in both the suits are one and the same and hence, he prays to allow this application.

4. The learned counsel for the 2nd respondent/1st defendant has no objection in allowing this application.

5. The learned counsel for the 1st respondent/plaintiff strongly opposed to allow this application stating that summons have not been served in this case and that the cause of action with respect to the TOS and the cause of action with respect to the suit are different.



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6. Considering the facts and circumstances of the case and having satisfied with the reason stated in the affidavit filed in support of this application, this Court is inclined to allow this application and accordingly, this application is allowed.

7. Registry is directed to call for the records in O.S No.355 of 2024 from the Court below.

13.09.2024

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