



Tr.C.M.P.No.813 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2024

CORAM

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

Tr.C.M.P.No.813 of 2024

&

C.M.P.No.18016 of 2024

1.Minor M.Sukirti

2.Minor M.Barath Suriya

...Petitioners

Vs.

1.P.Raguraja

2.P.Magudeshwaran

3.Nallasamy

4.Senthil Prasath

5.Balasubramanian

6.Arumugam

7.Karthik

...Respondents



Tr.C.M.P.No.813 of 2022

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Prayer: Transfer Petition is filed under Section 24 of the Code of Civil Procedure to withdraw I.A.No.1 of 2022 in I.A.No.634 of 2016 in O.S.No.812 of 2016 on the file of the II Additional Subordinate Court, Coimbatore and to transfer the same to the District Court, Tiruppur, to try along with O.S.No.310 of 2020 for trial and disposal.

For Petitioner : Mr. R.Nandha Kumar

ORDER

This Transfer Civil Miscellaneous Petition seeks clubbing of I.A.No.1 of 2022 in I.A.No.634 of 2016 in O.S.No.812 of 2016 on the file of the II Additional Subordinate Court, Coimbatore with O.S.No.310 of 2020 on the file of the District Court, Tiruppur.

2. The facts leading to the transfer are the father of the transfer petitioners, one Magudeshwaran had executed a pro note in favour of the plaintiff, P.Raguraja. The suit for recovery of money was presented



Tr.C.M.P.No.813 of 2027

in O.S.No.812 of 2016 on the file of the II Additional Subordinate Court, Coimbatore. Pending the suit, fearing alienation, an application was taken out for attachment of property in I.A.No.634 of 2016. An order of attachment was also granted by the learned Judge.

3. After the suit ended in a decree, the transfer petitioners, who are minors aged 11 and 18, filed a suit through their maternal grandfather in O.S.No.310 of 2020, alleging that the attached properties and other properties are the joint family properties of the plaintiffs and their father Magudeshwaran, and consequently sought for partition. Subsequently, the defendants 3 to 6 in O.S.No.310 of 2020, filed an application to raise an attachment in O.S.No.812 of 2016. Their plea is fraud has been played on the Court and the order of attachment had been obtained. Pleading that there are issues in common, this Transfer Civil Miscellaneous Petition has been presented.



Tr.C.M.P.No.813 of 2027

WEB COPY

4. The purchasers claim that they acquired the property by way of a registered sale deed on 21.06.2016, whereas, the suit itself had been instituted only on 18.08.2016. If that be the position, then the claim petition filed in I.A.No.1 of 2022 has no common issues with O.S.No.310 of 2020. This is because, in one suit, the claim is that the attachment is after the sale and in the other suit, the issue is whether the minors have right over the property.

5. As I do not find any common issues, I am not inclined to transfer I.A.No.1 of 2022 in I.A.No.634 of 2016 in O.S.No.812 of 2016 on the file of the II Additional Subordinate Court, Coimbatore to the file of the District Court, Tiruppur, to be tried along with O.S.No.310 of 2020.

6. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.



Tr.C.M.P.No.813 of 2024

WEB COPY

7. However, the learned II Additional Subordinate Judge, Coimbatore is requested to dispose of I.A.No.1 of 2022 in I.A.No.634 of 2016 in O.S.No.812 of 2016, within a period of 8 weeks, from the date of receipt of a copy of this order.

20.08.2024

Index : Yes/No
Internet : Yes/No
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To

1.The II Additional Subordinate Court,
Coimbatore.

2.The District Court,
Tiruppur.



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Tr.C.M.P.No.813 of 2024

V.LAKSHMINARAYANAN, J.

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Tr.C.M.P.No. 813 of 2024

20.08.2024