



Tr.C.M.P.No.910 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr.C.M.P.No.910 of 2024 and
C.M.P.No.19950 of 2024

N.Natarajan

.. Petitioner

Vs.

1. Senthilselvan
2. Dayanithi
- 3.Jothimani @ Jothi
4. Kayalvizhi
- 5.Kavipriya
- 6.Maheswari
7. Sujitha
8. A.V.Chinnasamy
9. N.Athiyappan
- 10.Usman
11. Manoharan
12. Saroja
13. Kanimozhi
14. The Sub-Registrar,
Office of the Sub-Registrar,
Pappireddipatti Town & Taluk,
Dharmapuri District.

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15. The District Registrar,
Office of the District Registrar,
Dharmapuri Town, Dharmapuri District.

16. The District Collector,
District Collectorate Office,
Dharmapuri.

17. Lavakumar
18.A.Selvam
19.A.C.Mani

.. Respondents

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Civil Procedure Code, to withdraw and transfer the suit in O.S.No.20 of 2021 on the file of the Additional District Court at Dharmapuri to be tried along with the suit in O.S.No.41 of 2011 on the file of the Principal District Court at Dharmapuri jointly.

For Petitioner : Dr.S.S.Swaminathan

For RR 14 to 16 : Mr.N.Muthuvel, Government Advocate

ORDER

This Transfer Civil Miscellaneous Petition seeks for a joint trial between O.S.No.20 of 2021 on the file of the Additional District Court at



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Dharmapuri and O.S.No.41 of 2011 on the file of the Principal District Court at Dharmapuri.

2. O.S.No.41 of 2011 is a suit for specific performance on the alleged agreement of sale dated 05.10.2010 and to declare that the sale deed that has been executed over the immovable property, which is the subject matter of the agreement as null and void.

3. O.S.No.20 of 2021 is a suit to declare that the sale deeds that have been executed in favour of the petitioner and respondents 8 to 11 herein are null and void and not binding on the plaintiff and for the relief of permanent injunction. The 6th defendant wants to club both the suits together as he fears it might result in conflict of judgments.

4. Dr.S.S.Swaminathan fairly points out that the trial has commenced in O.S.No.41 of 2011 and the evidence of the plaintiff is over and is now at the stage of the defendants' evidence.



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5. In a suit for specific performance, the issue that has to be considered by the Court is whether the agreement is true and genuine and if the plaintiff is ready and willing to get the sale deed executed in his favour. An issue of title is irrelevant in a suit for specific performance as it is still in the realm of contract, whereas in a suit in O.S.No.20 of 2021, the issue of title is an issue. There is no commonality of issues between O.S.No.20 of 2021 and O.S.No.41 of 2011.

6. That being the situation, if both the suits are clubbed together and the joint trial is ordered, it would lead to embarrassment of the proceedings. As there is no common issue, I am not inclined to admit the Transfer C.M.P. Accordingly, the Tr.C.M.P. stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

04.11.2024

Index:Yes/No
Internet:Yes/No
Neutral Citation:Yes/No
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To

1. The Additional District Judge, Dharmapuri.
2. The Principal District Judge at Dharmapuri.
3. The Sub-Registrar,
Office of the Sub-Registrar,
Pappireddipatti Town & Taluk,
Dharmapuri District.
4. The District Registrar,
Office of the District Registrar,
Dharmapuri Town, Dharmapuri District.
5. The District Collector,
District Collectorate Office,
Dharmapuri.



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V.LAKSHMINARAYANAN,J.

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