



Tr.CMP.,No.964 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Tr.CMP.No.964 of 2023

and CMP.No.23286 of 2023

B. Srinivasan S/o. Baskar

... Petitioner

VS

1. Vasanthamalli W/o. Mani

2. Manimegalai D/o. Balasubramanian

3. Baskar S/o. Balasubramanian

.. Respondents

PRAYER:- The Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure to withdraw O.S. No.29 of 2019 on the file of the learned Principal District Judge, Tiruvannamalai and transfer the same to the file of the learned Principal District Judge, Tiruvallur to try along with O.P. No.256 of 2023.

For Petitioner : Mr. P. Santhosh

For Respondents : Mr. G. Krishnakumar [for R1 & R2]
Served – No appearance for R3

ORDER



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The petition has been filed to withdraw O.S. No.29 of 2019 on the file of the learned Principal District Judge, Tiruvannamalai and transfer the same to the file of the learned Principal District Judge, Tiruvallur to try along with O.P. No.256 of 2023.

2. Heard Mr. P. Santhosh, learned counsel appearing for the petitioner and Mr. G. Krishnakumar, learned counsel appearing for the respondents 1 and 2.

3. This transfer Civil Miscellaneous Petition seeks transfer of O.S. No.29 of 2019 from the file of learned Principal Subordinate Judge, Tiruvannamalai to be heard and disposed along with O.P. No.256 of 2023 pending on the file of learned Principal District Judge, Tiruvallur. The O.S. No.29 of 2019 is a Suit for partition and separate possession. It has been pending before the learned Principal Subordinate Judge, Tiruannamalai for the past 5 years. After service of summons in the said Suit and after written statement has been presented, the O.P. No.256 of 2023 has been filed and consequently, this transfer Civil Miscellaneous Petition has been triggered seeking for clubbing of the matters.



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4. The proposition of law is that the partition suit and testamentary proceeding must be tried together is settled, but it is not for the petitioner to file the proceedings subsequently and ask for transfer the proceedings which has been pending for more than 5 years to be tried along with the Original Petition which has been initiated recently.

5. Considering the facts and circumstances of the case, the transfer Civil Miscellaneous petition is allowed. The OP which is pending will stand transferred and not the suit. Consequently, O.P. No. 256 of 2023 pending on the file of learned Principal District Judge, Tiruvallur shall stand transferred to the file of learned Principal District Judge, Tiruvannamalai to be heard and tried along with the O.S. No.29 of 2019, in which the plaintiff / respondent is supposed to have filed proof affidavit. The evidence in both the proceedings will be taken in common with the suit being the primary proceeding and the same will be disposed by a common judgment.

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



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Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

mjs

To

1. The Principal District Judge, Tiruvannamalai

2..The Principal District Judge, Tiruvallur .

V. LAKSHMINARAYANAN,J.

mjs

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