



Tr.CMP.No.1055 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr.CMP.No.1055 of 2023

and

C.M.P.No.25447 of 2023

V.Senthil Selvi

.. Petitioner

Vs.

Balasubramaniam

.. Respondent

Prayer : The Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the proceeding in O.S.No.47 of 2019 on the file of the learned II Additional District Judge at Erode and transfer the same to the file of the learned Principal District Judge at Erode.

For Petitioner : Mr.R.Sanjay
for Mr.Govind Chandrasekhar

For Respondent : Mr.R.P.Ruban Chakravarthy
for Mr.S.Kaithamalai Kumaran

ORDER

The present Transfer Civil Miscellaneous Petition seeks transfer of proceeding in O.S.No.47 of 2019 pending on the file of the learned



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II Additional District Judge at Erode and transfer the same to the file of the learned Principal District Judge at Erode to be heard and tried along with O.S.No.24 of 2018.

2. O.S.No.24 of 2018 is a suit for recovery of a sum of Rs.11,72,749/- being the amount allegedly paid under the agreement of sale. The suit has been filed by one R.N.Balamurugan. O.S.No.47 of 2019 is a suit for recovery of money of Rs.13,59,000/- based on a promissory note. It has been filed by one M.Balasubramaniam/the respondent in this transfer petition.

3. The case of the petitioner before me is that he had borrowed a sum of Rs.10,00,000/- from M.Balasubramaniam and at the time of entering into the transaction, he was forced into executing a registered sale agreement, and therefore, he wants both the suits to be tried together.



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4. The plea, whether it is a loan transaction or it is an agreement of sale, would have to be gone into in O.S.No.24 of 2018. There is no such confusion when it comes to O.S.No.47 of 2019 as it is a suit based on a foot of a promissory note. The issues in both the suits and the plaintiffs in both the suits are different. There is just a commonality in the defendants.

5. Therefore, there being no issues in common for the suits to be tried together. I feel this is an attempt made by the defendants in order to drag on the proceedings in both the suits. Therefore, this transfer petition does not deserve acceptance. Accordingly, the Transfer Civil Miscellaneous Petition stands dismissed. No costs. The connected Civil Miscellaneous Petition is closed.

16.07.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



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V. LAKSHMINARAYANAN, J.

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To

1.The learned II Additional District Judge,
Erode

2.The learned Principal District Judge,
Erode

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