



WEB COPY



Tr.CMP.No.1075 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Tr.CMP No.1075 of 2023

and

CMP.No.25707 of 2023

1.A.S.Rajan @ A.Soundararajan

2.D.Anandavalli

... Petitioners

-Versus-

1.A.Thanigaivel

2.A.Raman

3.A.Somasundram

4.A.Guberakrishnan

5.S.Rubalya Devi

6.Thulasi Bai @ Thulasi Mala

7.Sathiya

8.Sivakumar

9.Subasini

... Respondents

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. seeking to withdraw the suit in O.S. No.21 of 2018 on the file of Principal District and Sessions Judge, Chengalpattu and transfer the same to the Additional City Civil Court, Madras.

For Petitioner : Mr.Ashokkumar.D

For Respondent 1 : A.Thanigaivel
Party in person

For Respondents : Mr.B.K.Sreenivasan
2 to 4



WEB COPY



Tr.CMP.No.1075 of 2023

For Petitioner : Mr.Ashokkumar.D

*For Respondents : No appearance
5 to 9*

ORDER

This transfer petition is at the instance of the defendants 1 and 2 in O.S.No.21 of 2018.

2. O.S.No.21 of 2018 is a suit for partition and for separate possession. This suit has been presented before the learned Principal District and Sessions Judge at Chengalpet. On 23.01.2018, summons were served and the party-in-person would represent that the matter is pending for orders in the application filed for impleading. In the meantime, the defendants 1 and 2 wanted this suit to be transferred from the file of the Court at Principal District and Sessions Judge at Chengalpet to the file of the City Civil Court at Chennai.

3. While the suit in Chengalpet is pending, the first petitioner, A.S.Rajan @ A.Soundarajan has filed another suit in O.S.No.9138 of 2022 before the City Civil Court at Chennai. This suit is said to be pending before the learned XXI Additional City Civil Court, Chennai and this suit is also a suit for partition.



Tr.CMP.No.1075 of 2023

4. The proceedings in O.S.No.21 of 2018 have been pending for six years. If I were to transfer that suit to the file of the City Civil Court at Chennai, it would only increase the delay. It is not in dispute that all the parties to the litigation, who are claiming share in the property, are senior citizens. So is the case of the first petitioner himself; he is about 71 years old today. Therefore, I am not inclined to transfer O.S.No.21 of 2018 on the file of the Principal District and Sessions Court at Chengalpet to City Civil Court, Chennai.

5. Taking note of the fact that between the very same parties, O.S.No.9138 of 2022 is also pending and in the interest of justice, it is required for both suits to be tried together so that there is no conflict of judgments.

6. Mr.D.Ashok Kumar would argue that the first respondent, Thanigaivel, is a retired Deputy Superintendent of Police who had served in Chengalpet, and therefore that would create a cloud in the mind of the court.

7. Mr.Thanigaivel seems to have retired at least 12 years before the presentation of the suit. The fact that a police officer is a party does not make a difference to the court. In fact, when he served, the learned Principal District



Tr.CMP.No.1075 of 2023

Judge who is trying the suit had not even been a District Judge. I am not convinced with the allegation that as the first respondent had worked as Deputy Superintendent of Police, the proceedings should not be tried by the learned Principal District and Sessions Judge at Chengalpet.

8. In fine, the transfer petition seeking the transfer of O.S.No.21 of 2018 on the file of the learned Principal District and Sessions Judge, Chengalpet to the City Civil Court, Chennai, is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

9. Taking cognizance of the fact that O.S.No.9138 of 2022 on the file of the City Civil Court, Chennai seeks partition in respect of the very same property that is pending in O.S.No.21 of 2018 before the learned Principal District and Sessions Judge, Chengalpet, I am inclined to withdraw the said proceeding and transfer it to the Principal District and Sessions Judge at Chengalpet to be heard and disposed of along with O.S.No.21 of 2018. The learned Principal District and Sessions Judge will take note of the fact that the suit has been pending for more than six years and that the parties are all senior citizens. She shall make an endeavour to expedite the proceedings and dispose of the same within a period of 12 months from the date on which O.S.No.9138



Tr.CMP.No.1075 of 2023

of 2022 is received by that court.

WEB COPY

18.06.2024

nl

Index : Yes/No

Speaking Order/Non-speaking order

Neutral Citation : yes/No

To

1. The Principal District and Sessions Judge, Chengalpattu
2. The Additional City Civil Court, Madras.



WEB COPY



Tr.CMP.No.1075 of 2023

V.LAKSHMINARAYANAN, J.

nl

Tr.CMP.No.1075 of 2023



WEB COPY



Tr.CMP.No.1075 of 2023

18.06.2024