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TR.C.M.P.Nos.1106 & 1343 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2024

CORAM:

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

TR.C.M.P.No.1106 of 2024 and

C.M.P.No.24334 of 2024

V.Bangarammal (died)

1.V.Venkatesan

2.R.Jothi

3.V.Das

4.S.Balaji

5.A.Leelavathi

6.U.Pavithra

7.A.Hemnath

... Petitioners

Vs.

Narayanasamy Naidu (died)

1.N.Vijayakumar

2.N.Dharmaraj

3.Kuppammal

4.Revathi

5.Sasikala

6.Ramani

... Respondents

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, praying to withdraw and transfer O.S.No.430 of 2009 on the file of the District Munsif Court, Chengalpattu to the City Civil Court, Chennai for disposal in accordance with law.



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C.M.P.No.29009 of 2024

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V.Bangarammal (died)

1.V.Venkatesan

V.Thayar (died)

V.Adhikesavalu (died)

2.R.Jothi

3.V.Doss

4.S.Balaji

5.A.Leelavathi

6.U.Pavithra

7.A.Hemnath

... Petitioners

Vs.

Narayanasamy Naidu (died)

1.N.Vijayakumar

2.N.Dharmaraj

3.Kuppammal

4.Revathi

5.Sasikala

6.Ramani

7.The Sub Registrar, Joint - II,

Chengalpattu.

... Respondents

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, praying to withdraw and transfer O.S.No.300 of 2013, on the file of the District Munsif Court, Chengalpattu to the City Civil Court, Chennai for disposal in accordance with law.



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In both Tr.C.M.Ps.

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For Petitioners : Mr.J.Saravana Vel
For R1 & R2 : Mr.N.Sivaprakash

COMMON ORDER

These two transfer petitions seek for withdraw of O.S.No.430 of 2009 & O.S.No.300 of 2013, on the file of the District Munsif Court, Chengalpattu and transfer the same to the City Civil Court, Chennai.

2.When the matters came up for admission, I requested Mr.J.Saravana Vel to serve the entire papers on Mr.N.Siva Prakash, the learned counsel who represented the respondents in the connected proceedings. This is the second time that the petitioners are approaching this Court. Originally, they filed civil revision petition against refusal of the learned District Munsif at Chengalpattu to condone a delay of 21 days in filing the application to set aside the *ex-parte* decree. I condoned the delay and requested the the learned Judge to set aside the *ex-parte* decree and to



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club the suit in O.S.No.300 of 2013 along with O.S.No.430 of 2009 and dispose of the same expeditiously.

3.Mr.J.Saravana Vel inviting my attention to paragraph No.9 of the affidavit points out that originally the application was allowed and thereafter, it was called and dismissed. He points out that, one by one the parties to the suit are going to meet their makers and the suit still is languishing for the past 14 years. Furthermore, he invites my attention to the complaint that had been lodged against the Judicial Officer before the Vigilance Department of this Court. He states that if the proceedings continue before the learned District Munsif, Chengalpattu, his clients would be prejudiced. Hence, he seeks for transfer.

4.Mr.N.Sivaprakash who represents the respondents in the transfer pleads that the allegation made against the Judicial Officer should not be considered by this Court. He adds, the Vigilance complaint was closed



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leaving it open to the parties to workout there rights on the judicial side. He further states that since no ground for transfer has been made out, this Court should not transfer the suit from the file of the District Munsif Court at Chengalpattu.

5.I have carefully considered the submissions of both sides.

6.As pointed out by Mr.N.Sivaprakash, it is true that the Vigilance Department had passed an order dated 27.03.2023 stating that the grievance expressed by the deceased plaintiff cannot be addressed on the administrative side. The point remains that a complaint has been lodged against the Judicial Officer and the Judicial Officer has directed the parties to appear before her for the purpose of proceeding further in the suit. I do not want to transfer the suits, on the basis of the allegations made, as it will affect the fair name of the Judicial Officer. Yet, as matters have been precipitated by filing a complaint and having been taken up before this Court, there is bound to be a reasonable



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apprehension in the mind of the parties, regarding the manner of disposal, in case they were to appear before the same Judicial Officer, against whom they lodged the complaint. See, *Payal V. Ashok Kumar*, (1992) 3 SCC 116 (Paragraph 18).

7.Taking into consideration the aforesaid circumstances, I am inclined to allow both transfers. O.S.Nos.430 & 2009 & 300 of 2013 are withdrawn from the file of the learned District Munsif Court, Chengalpattu and transferred to the file of the learned District Munsif cum Judicial Magistrate, Thirukazhukundram.

8.The learned District Munsif cum Judicial Magistrate is directed to give utmost attention to the litigations, as the parties, have been before the Court for nearly a decade and half and above. The learned District Munsif cum Judicial Magistrate is also requested to take note of the fact that the parties to the suit are going to meet their makers, one by one, without seeing the disposal of the litigation in their lifetime.



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9.The learned District Munsif Court, Chengalpattu shall send the papers forthwith to the learned District Munsif cum Judicial Magistrate, Thirukazhukundram. The learned District Munsif cum Judicial Magistrate, Thirukazhukundram shall renumber the suit immediately and shall fix a date for the appearance of the parties and issue notice to the parties, so as to obviate any plea being raised by the parties, that they were not put on notice of the transfers.

10.With the above observations, the transfers are allowed.

Consequently, connected miscellaneous petitions are closed. No costs.

sli

20.12.2024

Index : Yes/No

Internet : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

To

1.The District Munsif cum Judicial Magistrate,
Thirukazhukundram.

2.The District Munsif Court,
Chengalpattu.



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V.LAKSHMINARAYANAN,J.

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