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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

Tr.C.M.P. Nos. 1317, 1319 & 1321 of 2022

Tr.C.M.P.No.1317 of 2022

P. Parameswaran ... Petitioner

Vs.

1.Chan Basha
2.Syed Sardar
3.Mohammed Hussain
4.Bashazadi

5.Syed Sardar Hussaini (deceased)

6.Althaf Hussaini
7.Jaibunissa
8.Hamidunnissa
9.Ali Basha
10.Hajira Banu
11.Hamsathbee
12.Faiyaz Luthin
13.Rafeeq Luthin
14.Roshma
15.Safreen ... Respondents

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Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C., praying to withdraw the O.S.No.58 of 2015 on the file of the learned Sub Court, Tirupattur, filed by the petitioner and transfer the case to the learned III Additional District Court, Tirupattur and enable to contest the case and thus render justice.

For Petitioner : Mr. N. Vijayaraj

Tr.C.M.P.No.1319 of 2022

C. Prakasam ... Petitioner

Vs.

1.Syed Sardar
2.Mohammed Hussain
3.Chan Basha
4.Bashazadi

5.Syed Sardar Hussaini (deceased)

6.Althaf Hussaini
7.Jaibunissa
8.Hamidunnissa
9.Ali Basha
10.Hajira Banu
11.Hamsathbee
12.Faiyaz Luthin
13.Rafeeq Luthin
14.Roshma
15.Safreen ... Respondents

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Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C., praying to withdraw the O.S.No.33 of 2015 on the file of the learned Sub Court, Tirupattur, filed by the petitioner and transfer the case to the learned III Additional District Court, Tirupattur and enable to contest the case and thus render justice.

For Petitioner : Mr. N. Vijayaraj

Tr.C.M.P.No.1321 of 2022

P. Parameswaran ... Petitioner

Vs.

1.Bashazadi
2.Mohammed Hussain

3.Syed Sardar Hussaini (deceased)

4.Chan Basha
5.Althaf Hussaini
6.Jaibunissa
7.Hamidunnissa
8.Ali Basha
9.Hajira Banu

10.The District Collector,
Tirupattur District.

11.The Sub Collector,
Tirupattur Town, Tirupattur District.

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12.The Thasildar,
Tirupattur Town, Tirupattur District.

13.Asmath bee
14.Faiyazhdin Rafeequdeen
15.Rafeequddin
16.Reshma
17.Shabrin
18.M. Abibur Rahman ... Respondents

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C., praying to withdraw the O.S.No.96 of 2013 on the file of the learned Sub Court, Tirupattur, filed by the petitioner and transfer the case to the learned III Additional District Court, Tirupattur and enable to contest the case and thus render justice.

For Petitioner : Mr. N. Vijayaraj
For Respondents : Mr. C. Sathish, for R10 to R12
Government Advocate

C O M M O N O R D E R

These Transfer Civil Miscellaneous Petitions are filed seeking to transfer O.S.Nos.58 of 2015, 33 of 2015 and 96 of 2013 on the file of the Sub Court, Tirupattur to the Court of the III Additional District Court, Tirupattur.

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2. Heard and perused the materials available on record.

3. Learned counsel for the petitioners submit that the respondents filed a suit for partition in the year 2000 at Subordinate Court, Tirupattur and then transferred to Additional District Court No.III, Tirupattur as O.S.No.19 of 2005. The suit finally decreed on a compromise memorandum by the Additional District Judge, No.III on 19.04.2013. During the pendency of the suit on 05.07.2007 and 28.01.2011, without revealing the details of the pendency of the above suit, some of the suit properties were sold to the petitioners herein, again on 05.06.2008 none of the said transactions were revealed to the Court or the plaint amended by adding the subsequent purchasers to that extent and the suit was continued in the same vein as though nothing had happened. Thus, a fraud has been committed and a vitiated decree has been obtained to the detriment of the petitioner and other purchasers and clearly the decree in O.S.No.19 of 2005 on the file of the Additional District Judge No.III, at Tirupattur on 19.04.2013 is unsustainable and void.

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4. The petitioner filed a suit in O.S.No.287 of 2011 before the District Munsiff Court, Tirupattur for declaration and permanent injunction and other reliefs and subsequently, the said suit was transferred to Sub Court, Tirupattur and renumbered as O.S.No.58 of 2015. The learned counsel further contends that in view of the fact that the Additional District Judge, No.III at Tirupattur is already seized of the matter in a suit for partition in O.S.No.19 of 2005 in respect of the schedule property, in the interest of justice and fair play, it is appropriate to transfer the suits in O.S.No.58 of 2015, O.S.No.33 of 2015 and O.S.No.96 of 2013 on the file of the Subordinate Court, Tirupattur to the file of the Additional District Judge, No.III at Tirupattur to try all the three suits together for proper adjudication and to avoid multiplicity of litigation.

5. Having heard the submissions of the learned counsel and on careful perusal of the material available on record, in our considered view, no prejudice will be caused to the respondents if these three suits pending on the file of the Sub Court, Tirupattur have been withdrawn from its file and

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transfer to the Court of III Additional District Judge, Tirupattur. It is also opinion of this Court that to avoid multiplicity of litigations and to avoid conflicting the judgments, as the property involved in all the suits are one and the same, it is appropriate and reasonable to try all the suits together in the interest of justice.

6. Accordingly, these Transfer Civil Miscellaneous Petitions are allowed and the O.S.No.58 of 2015, O.S.No.33 of 2015 and O.S.No.96 of 2013 pending on the file of Sub Court, Tirupattur, is hereby withdrawn and transferred to the III Additional District Court, Tirupattur to try all the three suits together. The Sub Court, Tirupattur shall transmit the entire record in O.S.No.58 of 2015, O.S.No.33 of 2015 and O.S.No.96 of 2013 pending on its file to the III Additional District Court, Tirupattur, forthwith, by duly indexed.

7. On receipt of the record, the III Additional District Court,

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Tirupattur shall adjudicate the suits as expeditiously as possible preferably within a period six months from the date of receipt of copy of this order. Both parties shall cooperate with the Court for early disposal of the suits.

8. There shall be no order as to costs.

10.06.2024

Index : Yes / No
Neutral Citation : Yes / No

AT

Note: Issue order copy within three days.

To
1.The Sub Court, Tirupattur.

2.The III Additional District Court, Tirupattur.

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BATTU DEVANAND, J.

AT

Tr.C.M.P. Nos. 1317, 1319 & 1321 of 2022

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