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Tr.CMP.(MD)No.176 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 08/03/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Tr.CMP (MD) No.176 of 2023

and

CMP (MD) No.3875 of 2023

1.R.Dhanalakshmi
2.R.Karuppiyah Gopi
3.R.Rekha : Petitioners

Vs.

P.Kasikani Ammal : Respondent

PRAYER:- Transfer Civil Miscellaneous Petition is filed under section 24 of the Civil Procedure Code, to withdraw and transfer the suit in OS No.180 of 2021 from the file of the District Court, Thoothukudi to the District Court, Dindigul.

For Petitioners : Mr.N.Marimuthu

For Respondent : Mr.V.Shathurthi Raja

O R D E R

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the suit in OS No.180 of 2021 from the file of the District Court, Thoothukudi to the District Court, Dindigul.



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2. The facts in brief:-

Suit is OS No.180 of 2021 is filed by Kasikani Ammal, who is the respondent herein seeking the relief of partition and separate possession of her share in the property. The defendant appeared and filed the written statement also. Pending further process, this petition is filed by the original defendants namely Dhanalaksmi and others seeking transfer of the trial process pending on the file of the District Court, Thoothukudi to the file of the District Court, Dindigul.

3. This petition is filed setting out the following facts:-

Out of the scheduled properties, only one property is situated in Tuticorin. Out of the eight defendants, six defendants are the residents of Dindigul District, two others alone residing in Thoothukudi. The present suit was filed, on 09/11/2021. Subsequently, one of the defendants namely Jeyakumar filed a suit for partition in OS No.174 of 2022 before the Additional Sub Judge, Dindigul in respect of the very same properties. These petitioners are defendants in OS No.174 of 2022. Finding it very difficult for attending the court between Tuticorin and Dindigul, they filed the petition seeking transfer.



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4.Heard both sides.

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5.Two suits are pending in two separate courts and districts for the very same relief. One is the subject matter pending on the file of the District Court, Thoothukudi and another in OS No.174 of 2022 on the file of the Additional District Judge, Dindigul. Both are concerning the partition and separate possession of the properties. In OS No.174 of 2022 Kasikani Ammal, who is the plaintiff in the present suit is not a party and where she is living is not clear on record. The parties have to file petition seeking transfer of both suits to the very same court for binding adjudication. Transferring this matter to the District Court, Dindigul will not solve the problem. Since the petitioners are defendants in OS No.174 of 2022, they can very well make appropriate application. Without exhausting that remedy, this petition is filed. Filing of repeated applications will create unnecessary complicity and multiplicity of proceedings.

6.So the petitioners can take out a fresh petition for transfer of both suits to the very same court. Since Kasikani Ammal is not a party in OS No.174 of 2022, steps must be taken by the present petitioners to transfer that



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suit. The parties are at liberty in both matters to take appropriate steps in this regard.

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7.With the above said observation, this Transfer Civil Miscellaneous Petition is **dismissed**. No costs. Consequently, connected CMP is closed.

08/03/2024

Index:Yes/No
Internet:Yes/No
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To,

- 1.The District Court,
Thoothukudi.
- 2.The District Court,
Dindigul.



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G.ILANGOVAN, J

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