



TR.C.M.P. (MD) No. 454 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

TR.C.M.P. (MD) No. 454 of 2023

and

C.M.P. (MD) No. 9628 of 2023

Vignesh

... Petitioner

-VS-

1.Kumar

2.Illaiyaraja

3.Meena

4.Nandhini

5.Satheesh Kumar

... Respondents

Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, to withdraw O.S. No. 125 of 2021 on the file of the Subordinate Court, Manamadurai and transfer the same to the file of the Subordinate Court-II, Madurai.

For Petitioner : Mr. S.Poornachandran

For R1, R2 & R5 : Mr. V.Boominathan

For R3 & R4 : No Appearance

ORDER

This Transfer Civil Miscellaneous Petition invoking Section 24 of the Civil Procedure Code has been filed to transfer the suit in O.S. No. 125 of 2021



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from the file of the Subordinate Court, Manamadurai (hereinafter referred to as 'Trial Court' for the sake of clarity and convenience) to the file of the Subordinate Court II, Madurai. The parties are hereinafter referred to as by the description in the suit in O.S. No. 125 of 2021 before the Trial Court for the sake of clarity and convenience.

2. Heard Mr. S.Poornachandran, Learned Counsel for the First Defendant, Mr. V.Boominathan, Learned Counsel appearing for the Plaintiff and Second to Fifth Defendants and perused the materials placed on record, apart from the pleadings of the parties.

3. Learned Counsel for the First Defendant submits that the father of the First Defendant was murdered allegedly by the Plaintiff and the Second and Fifth Defendants in respect of the same property dispute and since there is a life threat, the First Defendant seeks transfer. Per contra, Learned Counsel for the Plaintiff and the Second and Fifth Defendants submit that the alleged murder itself had taken place at Madurai and as such, the question of seeking transfer of the suit to the Court at Madurai would be meaningless.



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4. Learned Counsel for the First Defendant opposes the transfer contending that there is a life threat to him, which is denied by Learned Counsel for the Plaintiff, who asserts that there would not be any form of threat to the First Defendant by the Plaintiff, and he has made an endorsement to that effect in the court record.

5. Having regard to the rival contentions, this Court is of the considered view that the First Defendant and all his witnesses residing outside the territorial limits of jurisdiction of the Trial Court, may be examined through a Commission appointed by the Trial Court and fixing the remuneration in terms of Rule 4 read with Rules 7, 8, 15, 16, 16-A, 17, 18 and 18-B of Order XXVI of the Civil Procedure Code, 1908, which shall be videographed at the cost fully borne in advance by the Plaintiff. In respect of other hearings, the Counsel appearing for the First Defendant would attend to the case. It is clarified that the of other parties and their witnesses shall be examined in the Trial Court. It shall be ensured that there is atleast one effective hearing every month showing progress of the case and the Trial Court shall send monthly reports to the Registrar (Judicial) of this Court till the matter is finally disposed.



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In the result, the Transfer Civil Miscellaneous Petition is disposed on the aforesaid term. Consequently, the connected Miscellaneous Petition is closed.

No costs.

22.04.2024

Index : Yes/No

Internet : Yes/No

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Note: Issue order copy by 29.04.2024.



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P.D. AUDIKESAVALU, J.

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Copy To:-

1. The Subordinate Court, Manamadurai.
2. The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.
3. The Section Officer,
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.

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