



Tr.C.M.P.(MD)Nos.490 and 662 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 18.11.2024

Pronounced on : 04.12.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P.(MD)Nos.490 and 662 of 2023
and
C.M.P.(MD)Nos.10626 and 14624 of 2023

Tr.C.M.P.(MD)No.490 of 2023

K.Anand Kumarasamy

... Petitioner

Vs.

B.Selva Saravanakumar
represented through his Power Agent
B.Karthigai Selvi

... Respondent

Prayer : This Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to pass an order to withdraw the petition in O.P.No.103 of 2023 on the file of the Principal District Judge, Madurai District and transfer the same to the Additional District Judge No.1, Thoothukudi District.

For Petitioner : Mr.Aayiram K.Selvakumar

For Respondent : Mr.G.Ramanathan



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B.Selva Saravanakumar
represented through his Power Agent
B.Karthigai Selvi

... Petitioner

Vs.

K.Anand

... Respondent

Prayer : This Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw the O.S.No.24 of 2023 on the file of the learned 1st Additional District Judge, Thoothukudi and transfer the same to the learned Principal District Judge at Madurai.

For Petitioner : Mr.G.Ramanathan

For Respondent : Mr.Aayiram K.Selvakumar

COMMON ORDER

The Transfer Civil Miscellaneous Petition in Tr.C.M.P.(MD)No.490 of 2023 is filed to withdraw the case on the file of the Principal District Court, Madurai, in O.P.No.103 of 2023 and transfer the same to the file of the I Additional District Court, Thoothukudi.



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2. The Transfer Civil Miscellaneous Petition in Tr.C.M.P.(MD)No. 662 of 2023 is filed to withdraw the case on the file of the I Additional District Court, Thoothukudi, in O.S.No.24 of 2023 and transfer the same to the file of the Principal District Court, Madurai.

3. For the sake of convenience and brevity, the parties in both the petitions will be referred to as per their status/ranking in Tr.C.M.P. (MD)No.490 of 2023.

4. It is evident from the records that the petitioner has filed a suit in O.S.No.24 of 2023 against the respondent for recovery of loan amount due under the promissory notice with interest and costs and that the said suit is pending on the file of the I Additional District Court, Thoothukudi. It is further evident from the records that the respondent has filed a petition under Sections 5(i), 6 and 8 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 alleging that the petitioner had demanded and received exorbitant interest for the loan obtained and sought for the relief to adjust the excess and exorbitant interest paid by him and to restore the possession of the property (all the documents), which was



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forcibly taken by the petitioner for the hand loan advanced and that the said petition is pending in O.P.No.103 of 2023 on the file of the Principal District Court, Madurai.

5. It is pertinent to note that the petitioner has filed the transfer petition in Tr.C.M.P.(MD)No.490 of 2023 seeking transfer of the petition in O.P.No.103 of 2023 from the file of the Principal District Court, Madurai to the file of the I Additional District Court, Thoothukudi and during pendency of the said transfer petition, the respondent has filed the second transfer petition in Tr.C.M.P.(MD)No.662 of 2023 seeking transfer of the suit in O.S.No.24 of 2023 from the file of the I Additional District Court, Thoothukudi to the file of the Principal District Court, Madurai.

6. The learned counsel appearing for the petitioner would rely on a decision of this Court in *M.Andiappa Chettiar and others Vs. R.Mohandoss* passed in *Tr.C.M.P.(MD)No.214 of 2009 dated 02.03.2011* and in a similar case, this Court has passed an order transferring the petition in M.LO.P.No.111 of 2009 from the file of the Subordinate Court, Pudukkottai to the file of the District Court, Pudukkottai to try the same



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along with the suit in O.S.No.114 of 2004 pending on the file of the District Court, Pudukkottai and the relevant portions are extracted hereunder:-

“8.It is true that the cause of action for both the suit and M.L.O.P., are one and the same and everything is based upon the mortgage deed. Likewise, parties in the suit and the M.L.O.P., are one and the same. As per the decision of the Honourable Apex Court relied on by the petitioners, it is the best course that both the M.L.O.P., and the suit are tried together.

.....

15.As stated above, since the cause of action for both the suit and the M.L.O.P., and the parties being the same, I am of the view that both the suit and the M.L.O.P., are to be tried together. However, as stated above, the purpose of the Act also should be taken into account while trying the M.L.O.P., together with suit. If the M.L.O.P., is decided in favour of the respondent, the suit could be disposed of at the threshold itself. Hence, while transferring the M.L.O.P.No.111 of 2009 from the file of the Subordinate Judge, Pudukkottai, a direction is issued to the District Judge, Pudukkottai to try the issue involved in the M.L.O.P., as a preliminary issue and then he may



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proceed to try the other issues in the suit, if it is so required. It is made clear that whatever stated in this order, has no bearing on the merits of the issue.”

7. The above decision is squarely applicable to the case on hand.

8. The learned counsel appearing for the petitioner as well as the respondent would seek transfer of the case as claimed in their petitions.

9. As already pointed out, in the above decision case, petition filed under the Tamil Nadu Prohibition of Charging Exorbitant Interest Act came to be transferred to the Court where the suit was pending and also directed the concerned Court to try the issue involved in the M.L.O.P. as a preliminary issue and then to proceed to try the other issues in the suit.

10. Considering the above facts and circumstances and taking note of the submissions made on either side and also the decision above referred, this Court is of the view that the petition in O.P.No.103 of 2023 is to be withdrawn from the file of the Principal District Court, Madurai and transferred to the file of the I Additional District Court, Thoothukudi



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and the learned I Additional District Judge, Thoothukudi is to be directed to try the issue involved in O.P.No.103 of 2023 as a preliminary issue and then to proceed to try the other issues involved in the suit, if required.

11. In the result, the petition in Tr.C.M.P.(MD)No.490 of 2023 stands allowed and the petition in Tr.C.M.P.(MD)No.662 of 2023 stands dismissed. Accordingly, the learned Principal District Judge, Madurai, is hereby directed to transmit the entire records in O.P.No.103 of 2023 to the file of the I Additional District Court, Thoothukudi, within a period of 10 days from the date of receipt of a copy of this order and on receiving the case records, the learned I Additional District Judge, Thoothukudi, is directed to take up the petition on file and then to try the issue involved in O.P.No.103 of 2023 as a preliminary issue and then to proceed to try the other issues involved in the suit in O.S.No.24 of 2023, if required. Consequently, connected Miscellaneous Petitions are closed.

04.12.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
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K.MURALI SHANKAR,J.

csn

To

1. The Principal District Court,
Madurai.
2. The I Additional District Court,
Thoothukudi.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

Pre-Delivery Common Order made in
Tr.C.M.P.(MD)Nos.490 and 662 of 2023
and
C.M.P.(MD)Nos.10626 and 14624 of 2023

Dated : 04.12.2024