



TR.C.M.P(MD)No.269 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

TR.C.M.P(MD)No.269 of 2015

and

M.P(MD)No.1 of 2015

1.Kasthuri

2.Ohm Prakash

3.Subhashini

... Petitioner

Vs

1.M.V.Senthilkumaran

2.Thandapani

... Respondents

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of CPC, to withdraw O.S.No.11 of 2005 pending on the file of Principal District Munsif Court, Dindigul and transfer the same to any of the District Munsif Court at Madurai or any nearby Districts, Dindigul.

For Petitioner : Mr.S.Anand Chandrasekar

For R1 : Mr.M.P.Senthil

For R2 and R3 : No appearance



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TR.C.M.P(MD)No.269 of 2015

ORDER

This Transfer Civil Miscellaneous Petition is filed to withdraw O.S.No.11 of 2005 pending on the file of Principal District Munsif Court, Dindigul and transfer the same to any of the District Munsif Court at Madurai or Dindigul.

2. The facts in brief is that the suit in O.S.No.11 of 2005 was filed by the first respondent's mother by name Selvarani before the Principal District Munsif Court, Dindigul, against the second respondent herein and one Rengaraj who is the husband of the first petitioner seeking the relief of specific performance, based upon the sale agreement dated 18.10.2002. Selvarani died and legal heirs were brought on record. The second plaintiff is also dead. So his legal representatives were brought on record. The other particulars mentioned in the petition are not relevant for the present subject manner of the issue.

3. Learned counsel for the petitioner would submit that on 29.06.2015, the counsel called the first petitioner to come to his office



TR.C.M.P(MD)No.269 of 2015

and on 01.07.2015, he told her that he cannot continue to appear in the matter. He told that the first respondent is an active practitioner in Dindigul and member of Dindigul Bar Association. Due to the pressure made by him, he is not taking up the matter. So the petitioner approached other advocates to engage their services. They also refused. Finding it very difficult to engage an advocate, this petition is filed seeking transfer.

4. This Transfer Civil Miscellaneous Petition was filed in the year 2015. To know the present position and also to know whether any advocate is appearing for the petitioner, a report is called for from the Principal District Munsif, Dindigul. The report reads as under:

"I most humbly submit that the suit in O.S.No.11 of 2005 pending on the file of Principal District Munsif Court where in the petitioners in TR.CMP(MD)No.269 of 2015 namely 1.Mrs.Kasthur, 2.Mr.Ohm Prakash, 3. Ms.Subhashini were defendants 3,4,5 in the O.S.No.11 of 2005 and Advocates Mr.C.Stanly Manoharan and Mr.S.Vadivel were filed vakalath for Defendants D3 to D5 on 22.09.2006 and the above advocates were appeared for the defendants 3 to 5."



TR.C.M.P(MD)No.269 of 2015

5. The report is placed on record. A specific query was made to the learned counsel for the petitioner as to the reason for this petition. He repeated the very same reason stated in the petition. It is also submitted by the respondent herein that trial process was almost completed and posted for arguments before the trial Court. But there is no indication in the letter submitted by the learned Principal District Munsif, Dindigul, as to the stage of the trial. Now whatever it may be, there is no indication in the report that one Mr.Stanly Manohanran, who is appearing for the petitioner withdrew his vakalat. They filed their vakalat on 22.09.2006. In the petition it is stated that they called him to their office on 01.07.2015 and expressed their inability. But the report of the Court gives contra evidence.

6. Moreover, simply because the first respondent is a practicing advocate, entertainment of this sort of petition will amount to clear abuse of process of the Court, at the most, it would be improper also, moreover, at the advance stage of the trial process. I find no acceptable reason to transfer the proceedings.



TR.C.M.P(MD)No.269 of 2015

7. Therefore, this Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected miscellaneous petition is closed.

No costs.

19.03.2024

NCC :Yes/No

Index :Yes/No

Internet : Yes/ No

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To

1. The Principal District Munsif Court, Dindigul.



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TR.C.M.P(MD)No.269 of 2015

G.ILANGOVA, J.

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ORDER
IN
TR.C.M.P(MD)No.269 of 2015
and
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