



Tr.CMP.(MD)No.458 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2024

CORAM

THE HON'BLE MR JUSTICE P. VADAMALAI

Tr.CMP.(MD)No.458 of 2023

and

C.M.P.(MD)No.9857 of 2023

Ayyappan

.. Petitioner

Vs.

1.Muthupandi

2.Ram sate

3.Thankam

.. Respondents

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the proceeding in O.S.No.11 of 2007 on the file of the District Munsif Court, Ramanathapuram and transfer the same to the file of the District Munsif Court, Madurai.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : No Appearance



Tr.CMP.(MD)No.458 of 2023

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ORDER

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the proceeding in O.S.No.11 of 2007 on the file of the District Munsif Court, Ramanathapuram and transfer the same to the file of the District Munsif Court, Madurai.

2. The petitioner had filed a suit in O.S.No.11 of 2007 on the file of the District Munsif Court, Ramanathapuram seeking specific performance of an agreement of sale. In the said suit, the respondents were set *ex parte*. Therefore, the suit was decreed as *ex parte* on 07.10.2009. On 30.04.2015, the respondents had filed a petition in I.A.No.525 of 2009 to set aside the said *ex parte* decree and the same was dismissed on 07.06.2016. Thereafter, an Appeal in C.M.A.No.6 of 2013 was filed by the respondents and the same was allowed on 02.08.2014.

3. Aggrieved over the same, the petitioner had filed a Civil Revision Petition before this Court along with a petition to condone delay and the same was dismissed on 19.12.2017. Thereafter, the petitioner had preferred



Tr.CMP.(MD)No.458 of 2023

a review application before this Court in Rev.Aplc.(MD)No.54 of 2019, but that was also dismissed on 13.06.2019.

4. Now, the suit in O.S.No.11 of 2007 was restored on 28.01.2022 as per the order passed in I.A.No.465 of 2022, and is pending for P.W.1's cross examination on the file of the District Munsif Court, Ramanathapuram.

5. The name of the respondents have been printed in the cause list. Despite the names have been printed in the cause list, the respondents have neither entered appearance through a counsel nor in-person to oppose this transfer petition.

6. Heard the learned counsel appearing for the petitioner.

7. The learned counsel for the petitioner would submit that the petitioner is the resident of Kalkulam Taluk, Kanyakumari District. Since there is life threat from the respondents, the petitioner is not in a position to appear for the cross examination before the trial Court. Further, the distance between the petitioner's place of residence and Ramanathapuram is around



Tr.CMP.(MD)No.458 of 2023

450 Kms. Hence, he seeks transfer of the proceeding in O.S. No.11 of 2007 from the file of the District Munsif Court, Ramanathapuram to the file of the District Munsif Court, Madurai.

8. Considering the overall facts and circumstances of the case, and also considering the fact that the suit is pending for P.W.1's cross examination since 30.08.2022 as stated by the learned District Munsif, Ramanathapuram (F.A.C.) in his report dated 03.10.2024, this Court is inclined to allow this petition.

9. The learned District Munsif, Ramanathapuram is directed to transmit the entire records, pertaining to the case in O.S.No.11 of 2007 to the file of the Principal District Munsif, Madurai within a period of two weeks from the date of receipt of a copy of this order, and on receipt of such records, the learned Principal District Munsif, Madurai is directed to take the case on file and dispose of the same as expeditiously as possible in accordance with law.



Tr.CMP.(MD)No.458 of 2023

WEB COPY 10. Accordingly, this Transfer Civil Miscellaneous Petition stands allowed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

16.10.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



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Tr.CMP.(MD)No.458 of 2023

P. VADAMALAI, J.

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To

1.The District Munsif Court,
Ramanathapuram

2.The District Munsif Court,
Madurai

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and

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