



Tr.C.M.P(MD)No.530 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.10.2024

Pronounced on : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.530 of 2024

and

C.M.P(MD)No.12663 of 2024

K.P.Kannan

... Petitioner

Vs.

Govindaraj

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the O.S.No.318 of 2022 on the file of the Principal District Court, Karur and transfer the suit to the Principal District Court, Nammakkal or to any other District Court.

For Petitioner : Ms.P.Subathra Devi
for M/s.Polex Legal Solutions

For Respondent : Mr.V.Balaji



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ORDER

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This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the case in O.S.No.318 of 2022 from the file of the Principal District Court, Karur and transfer the same to the file of the Principal District Court, Namakkal.

2. The learned counsel for the petitioner has submitted that the respondent has filed a suit in O.S.No.318 of 2022 before the Principal District Court, Karur, for recovery of money on the alleged pronote executed by the petitioner. The learned Principal District Judge, Karur had decreed the suit ex-parte without giving an opportunity. After reopening the case, the learned Presiding Officer has not given opportunity for cross examination and at the time of cross examination his counsel was not allowed to put several questions. Moreover, the Presiding Officer told in the open Court how long the plaintiff, who had given money could wait for the result of the suit, so the attitude of the Presiding Officer was predetermined one. Therefore, the petitioner cannot get justice in the suit from the Principal District Court, Karur. In the above circumstance, the petitioner has filed this present Transfer Civil Miscellaneous Petition.



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3. The learned counsel for the respondent would submit that after due service of notice, the petitioner was set ex-parte on 12.06.2024.

Then the petitioner/defendant filed the petition under Order 9 Rule 7 of CPC., and the same was allowed on 20.06.2024. Even then the petitioner did not cooperate for trial of the case, he was absent on 04.07.2024 and 08.07.2024 on which date he was set ex-parte. Again the petitioner filed the petition to set aside ex-parte order and the same was allowed on 09.08.2024. The petitioner cross examined PW1 at length and dragged the suit, which is pending for cross examination of plaintiff side witnesses. This transfer petition is also filed to drag the proceedings further.

4. Submissions of both sides considered. Upon the allegations, remarks have been called for from the learned Principal District Judge, Karur and the remarks have been received. On perusal of remarks, it is revealed the following facts:

“The suit in O.S.No.318 of 2022 was filed on 12.09.2022. The petitioner who is the defendant therein appeared through counsel on 08.11.2022, written statement was filed on 06.04.2023, Then the case was posted in the list on 12.06.2024, on that date, PW1 was examined and as there was no



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representation on the petitioner side he was only set ex-parte, then petition under Order 9 Rule 7 CPC was filed and allowed on 20.06.2024 and the case was posted to 04.07.2024 for cross examination of PW.1. On 04.07.2024, there was again no representation for the petitioner, so he was set ex-parte. PW.2 was examined on 18.07.2024. Again the petitioner filed the petitions in I.A.Nos.6 to 8 of 2024 and the same were allowed on 09.08.2024. Thereafter, the petitioner appeared in person and filed a petition to adjourn the case. When the suit is pending for PW2 cross, the petitioner filed this petition.”

So, the petitioner was only set ex-parte and no ex-parte decree was passed. After setting aside the ex-parte order, the petitioner's counsel was allowed to cross examine P.W.1 at length and cross examination of P.W.1 runs to five pages. After that, the petitioner has not chosen to cross examine P.W.2. The petitioner has been given sufficient opportunity by the trial Court. The petitioner has not filed any other material to substantiate his allegations, even no affidavit from his counsel or any other advocate is filed. Therefore, this Court is of the opinion that the petitioner leveled only bald allegations for this petition to drag on the suit without any progress. The petition has no merits.



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Therefore, this Court is not inclined to allow this petition, however, there would be a direction for disposal of the case.

5. In the result, this Transfer Miscellaneous Petition is dismissed.

The learned Principal District Judge, Karur, is directed to dispose of the suit in O.S.No.318 of 2022 on merits according to law within a period of five months from the date of receipt of a copy of this order. Both parties are directed to co-operate for trial and for disposal of the case. No costs. Consequently, the connected Miscellaneous Petition is closed.

27.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The Principal District Judge,
Karur.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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