



Tr.C.M.P.Nos.116 and 117 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :19.06.2025

CORAM:

THE HON'BLE MR. JUSTICE P.B. BALAJI

Tr.C.M.P.Nos.116 and 117 of 2025 and C.M.P.Nos.2329 and 2331 of 2025

- 1.K.Shankar
- 2.K.Ramesh
- 3.K.Sekar

.... Petitioners in both the petitions

VS

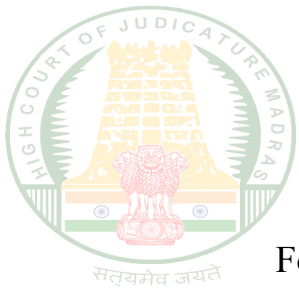
1. Smt.K.Banumathi
- 2.P.M.M.Nandagopal (died)
- 3.N.Saravana Sundar (died)
- 4.Vijayalakshmi
- 5.P.M.N.Mohana Krishna
- 6.P.N.Sankar
- 7.N.S.Aruna
- 8.Minor.N.S.Aravindh Roshan

... Respondents in Tr.C.M.P.No. 116 of 2025

Smt.K.Banumathi

... Respondent in Tr.C.M.P.No.117 of 2025

Tr.Civil Revision Petitions filed under Section 24 of Civil Procedure Code seeking to withdraw O.S.No.6 of 2012 and O.S.No.14 of 2012 from the file of Principal District and Sessions Court, Tirupattur to Principal District Court, Vellore.



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For Petitioner

: Mr.R.S.Maithreya

For Respondent in

: R.1 – Not ready in notice

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RR.1,4,6 and 7 – Not ready notice

R.2 & R.3 – Died

R.5 – Mr.B.Manohar

For Respondent in

Tr.C.M.P.No.117 of 2025

: Not ready in notice

COMMON ORDER

These transfer petitions have been filed seeking transfer of O.S.Nos.6 and 14 of 2012 from the file of Principal District and Sessions Court, Tirupattur to Principal District Court, Vellore.

2. Heard Mr.R.S.Maithreya, learned counsel for the petitioners and Mr.B.Manohar, learned counsel for the fifth respondent.

3. Learned counsel for the petitioner in these petitions would state that the petitioner is claiming under a Will under which the entire property has been bequeathed to the petitioner. There is a rival Will that has been set up by other plaintiffs and the cases are being tried before the Principal District Court Tirupattur.

4. The grievance of the petitioners in these petitions is that the trial

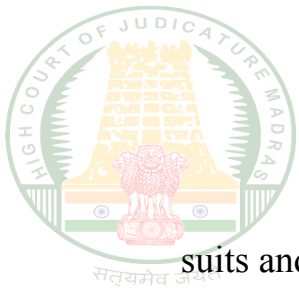


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Court has not disposed of I.A.No.6 of 2023 and has gone ahead with the trial and even during trial, no fair opportunity is being granted to these petitioners in Tr.C.M.P and apprehending that the petitioners may not get fair treatment before the same court, the petitioners have come forward seeking transfer.

5. Learned counsel for the petitioners would take me through the adjudication in the suits and also contend that though two applications were filed in I.A.Nos.5 and 6 of 2023, the trial Court has proceeded to take up only I.A.No.5 of 2023 and having dismissed the same, no orders have been passed in I.A.No.6 of 2023. Therefore, the petitioners seek transfer of suits to enable the parties to get fair and proper trial.

6. Per contra, learned counsel for the fifth respondent would state that earlier suit was filed in the year 2009 and subsequent suits came to be filed in 2012 and trial Court has conducted the trial in a fair manner. Learned counsel would also refer to various adjudications and attempted to establish that sufficient opportunity was given to the petitioners to examine and cross examine the witnesses and only for the failure of the petitioners to come forward to cross examine, the evidence came to be closed and therefore, learned counsel submits that absolutely, no ground is made out for transfer of



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suits and therefore prays for dismissal of the petitions.

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7. I have carefully considered the submissions advanced by the learned counsel on either side and have gone through the averments set out in the petitions for transfer as well as the counter affidavit filed by the fifth respondent.

8. The grievance of the petitioners seem to be that the trial court exhibited bias against the petitioners. Admittedly when the suits were filed and the earlier applications were taken up, a different Presiding Office was incharge of the Court and it is represented by the learned counsel for the petitioners that from 2023 onwards, the present Presiding Officer is only presiding over the District Court, Tirupattur.

9. On going through the affidavits filed in support of the transfer petitions, though it is stated that the trial court has denied a fair opportunity to the petitioners to cross examine the attesting witnesses in the other Will, as rightly pointed out by the learned counsel appearing for the 5th defendant, even in the affidavit filed in the interlocutory applications before the trial court, such reasons have not been set out and therefore, I am unable to accept



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the allegations now being directed against the Presiding Officer. However, at the same time, the grievance of the petitioners is also that I.A.No.6 of 2023, has not been disposed of deserves to be addressed.

10. Having disposed of I.A.No.5 of 2023, the trial Court ought not to have kept pending I.A.No.6 of 2023 pending for two years. Therefore, while dismissing both the Tr.C.M.Ps, a direction is issued to the trial Court to take up I.A.No.6 of 2023 and dispose of the same after conducting due enquiry, giving opportunity to the counsel for the parties to address arguments and dispose of the same within a period of thirty days from the date of receipt of a copy of this order. Thereafter, joint trial should be proceeded with and both the suits in O.S.Nos.6 and 14 of 2012 shall be disposed within a period of three months.

11. The trial Court shall permit P.W.1 Mohanakrishnan to be cross examined by the counsel for the defendants 1 to 3 in O.S.No.6 of 2012. Similarly, the trial Court shall also permit the defendants in O.S.No.6 of 2012 to pay witness batta for summoning attesting witnesses P.W.2 and P.W.3 on a particular day assigned by the trial court, Subject to the appearance of the witness P.W.2 and P.W.3 on the said date, the counsel for the defendants



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shall be permitted to cross examine them. No further indulgence shall be shown to the counsel for the defendants by way of adjourning the matter to any other date both for the purposes of cross examination of P.W.1, P.W.2 and P.W.3.

12. The suits shall in any event be taken up for full fledged trial and both the suits shall be disposed of within a period of four months from the date of receipt of a copy of this order.

13. With the above direction, both the Tr.C.M.Ps are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

19.06.2025

Index: Yes/No
Website:yes/no
Speaking Order/Non-Speaking Order
sr

To

1. The Principal District and Sessions Court, Tirupattur
2. The Principal District Court, Vellore



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P.B.BALAJI.,J.

Sr

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