



Tr.C.M.P.No.769 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.01.2025**

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CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Tr.C.M.P.No.769 of 2024
& C.M.P.No.16738 of 2024

M.R.Mohan Reddy

.. Petitioner

Vs

1. V. Ramkumar

2. P. Malliga

3. S. Aravind

.. Respondents

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw and transfer suit in O.S.No.77 of 2013 on the file of the Court of the Hon'ble Additional District Court, (FTC), Kancheepuram to the Hon'ble City Civil Court, Chennai.

For Petitioner : Mr. K.S.V.Prasad

For Respondents : Mr R.Sukumaran

ORDER

This transfer petition seeks for withdrawal of O.S.No.77 of 2013 from the file of the Additional District Court at Kancheepuram and transfer the same to the City Civil Court at Chennai.

2. The transfer petitioner is the second defendant in the suit.



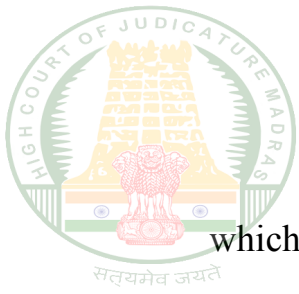
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O.S.No.77 of 2013 has been presented for a declaration that the plaintiff is the absolute owner of the property and for consequential injunction restraining the defendants from interfering with the plaintiff's peaceful possession and enjoyment of the same. Pleadings have been completed and the matter is now listed for evidence.

3. The plaintiff, being unable on account of his health and age related issues, has not been in a position to attend the Court at Kancheepuram. Hence, he filed an application seeking appointment of an Advocate Commissioner to record his evidence. The said application came to be allowed. Challenging the same, a Civil Revision Petition was preferred before this Court. This Court dismissed the Civil Revision Petition filed against the order permitting the evidence to be recorded through the office of Advocate Commissioner.

4. The grievance of the first respondent is that the Court in Kancheepuram is situated in the second floor and he is unable to climb stairs in order to depose before the Court. In fact, the learned Presiding Officer in Kancheepuram was kind enough to direct his Court Officer to go to the ground floor and receive the proof affidavit. The ground on



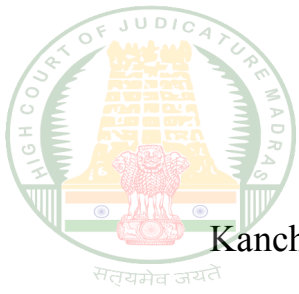
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which the 2nd defendant has moved this transfer is that the plaintiff and the defendants 1 to 3 are all residents of Chennai and it will be in the interest of all the parties, the proceedings are heard in Chennai.

5. Mr. K.S.V.Prasad invited my attention to a judgment of this Court in ***Pamban Kumaragurubara Swami Temple /vs/ K. Subramanya Mudaliar, 1976 (2) MLJ 209*** to press home the point that where all the parties are residents of Chennai and couple of them are suffering from health ailments, it is in the interest of all parties concerned that the proceedings are transferred to City Civil Court at Chennai.

6. A perusal of the cause title shows that the plaintiff is aged about 80 years today. It will be impossible for him, considering the pleas that he has taken before the learned District Judge at Kancheepuram, to travel to Kancheepuram and depose before the Court.

7. Ms. Monisha submits that as on today, the plaintiff is not in a position to climb stairs. That being the situation, I am inclined to apply the judgment of Hon'ble Mr. Justice Gokula Krishnan cited supra and transfer the proceedings from the file of the Additional District Judge at



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Kancheepuram to the file of the Principal Judge, City Civil Court at Chennai. City Civil Court, Chennai would be convenient for all the parties, as they are staying in Chennai. Apart from that, elevator facilities are available in the City Civil Court obviating the necessity for the plaintiff to climb stairs.

8. In the light of the above discussion, Tr.CMP No.769 of 2024 is ordered in the following terms:

i) O.S.No.77 of 2013 is withdrawn from the file of the Additional District Court (FTC), Kancheepuram and transferred to the file of the Principal Judge, City Civil Court at Chennai.

(ii) The Principal Judge, City Civil Court at Chennai, is requested to try the suit himself and ensure that the suit is disposed of within four months from the date of receipt of the records from the Additional District Judge at Kancheepuram.

(iii) The Additional District Judge at Kancheepuram, shall transfer the papers in O.S.No.77 of 2013 Chennai, by way of special messenger, to the City Civil Court at Madras. The papers should be received by the City Civil Court by 07.02.2025. The parties by consent agreed they shall appear before the Court for first hearing of the suit on 17.02.2025



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(iv) The learned Principal Judge, City Civil Court, Chennai, shall

try the proceedings from the stage at which the suit was pending before the Additional District Court at Kancheepuram. He need not conduct a denovo trial. To make it clear, the proof affidavit filed by the plaintiff shall continue to be on the file of the Principal Judge and from the first hearing before the Principal Judge, the cross examination of the suit should commence.

(v) The learned Principal Judge, City Civil Court at Chennai shall ensure that the suit is given atleast two effective hearings every week.

9. With the above observations, the Transfer Petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

24.01.2025

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

mrp



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V. LAKSHMINARAYANAN,J.

mrp

To

- 1.The Additional District Judge, Additional District Court(FTC),
Kancheepuram.
- 2.The Principal Judge, City Civil Court, Chennai.

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