



TR.CMP.No.1135 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 09.07.2025

Order pronounced on : 18.07.2025

CORAM

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

TR.CMP.No.1135 of 2024

1.Sathya
2.Shri Varshini
3.Sharmikasri
4.Shankar
5.Babu
6.Sridhar
7.Murali
8.Vasumathi
9.Geetha

..Petitioners

Vs.

1.Elangovan
2.Moses
3.Mani
4.Gothai

..Respondents

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure, to withdraw and transfer the above case in O.S.No.331 of 2023 pending on the file of the II Additional District and Sessions Judge, Thiruvallur, Poonamallee, to City Civil Court, Chennai.



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For Petitioners : Mr.R.Ganesan

For Respondents : Mr.Ravikumar Paul
Senior Counsel
for M/s.Paul & Paul

ORDER

The present Transfer Civil Miscellaneous Petition has been taken out by the plaintiffs in O.S.No.331 of 2023 to withdraw the above case from the file of the II Additional District and Sessions Judge, Thiruvallur, Poonamallee, and transfer the same to the City Civil Court, Chennai.

2.I have heard Mr.R.Ganesan, learned counsel for the petitioner and Mr.Ravikumar Paul, Senior Counsel for M/s.Paul & Paul for the respondents.

3.The contention of Mr.R.Ganesan, learned counsel for the petitioner is that the 1st defendant is a Senior Member of the Bar Association at Poonamallee and is activity participating in Bar activities and also held the position of President of the Bar Association, several terms. It is the therefore the contention of the learned counsel for the petitioner that the 1st defendant holds grip over all members of the Poonamallee Bar and majority of the bar members at Poonamallee, out of fear and untold reasons, are refusing to appear for the



revision petitioners. The learned counsel for the petitioners states that because of the influence being wielded by the 1st defendant, the petitioners are unable to get a level playing ground and hence, the petition seeks transfer of the suit to any other Court.

4.In support of his contention, the learned counsel for the petitioner would place reliance on the decisions of the Hon'ble Supreme Court in *Maneka Sanjay Gandhi and Another Vs. Rani Jethmalani*, reported in 1979 (4) SCC 167 and *Dr.Subramaniam Swamy Vs. Ramakrishna Hegde*, reported in 1990 (1) SCC 4.

5.Per contra, Mr.Ravikumar Paul, learned Senior Counsel, appearing for the respondents would submit that the 1st defendant is a very senior member of the Bar who was also felicitated for having completed 50 years of service in February 2025 and the allegations of panic and fear are clearly speculative and the same cannot form the basis for acceding to a request for transfer of the suit itself. The learned Senior Counsel would also take strong exception to the allegations made based on caste basis. In any event, the learned Senior Counsel would submit that even the plaint has been filed by the plaintiffs through a battery of lawyers who have their office only at Chennai and therefore, none of

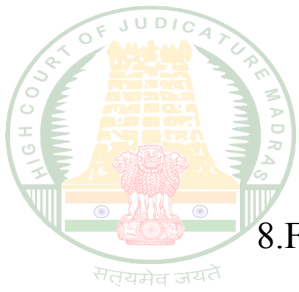


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the allegations and apprehensions in the affidavit in support of the transfer petition merit any consideration. He would therefore seek for dismissal of the transfer CMP.

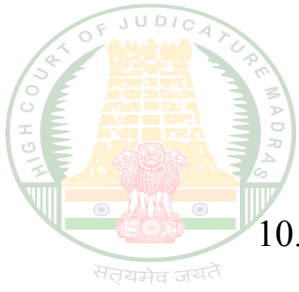
6.I have carefully considered the submissions advanced by the learned counsel for the petitioners and the learned Senior Counsel for the respondents. I have gone through the affidavit filed in support of the transfer petition as well as the counter filed by the first respondent, adopted by the respondents 2 to 4.

7.At the outset, I am able to notice that the suit has been filed by the petitioners through counsel who have their office only in Chennai and as many as six advocates represent the plaintiffs. The suit has been filed in the year 2023 and has been pending for nearly two years. It is seen from the typed set of papers that the written statement has also been filed and the suit is now pending trial. Merely because the 1st defendant happens to be a senior member of the local Bar, it does not give a right to the plaintiffs to seek transfer of the suit. If such request is accepted, then no suit which is filed against any member of the Bar can be prosecuted or defended by him effectively in any Court.



8. Further, the apprehensions of fear and panic appear to be only on paper and figment of imagination on the plaintiffs. Not even a single instance of any undue influence or power wielded by the 1st defendant has been set out in the affidavit in support of the transfer petition. Merely because one of the defendants in the civil suit happens to be a senior member of the Bar, it cannot automatically imply that the plaintiffs will not get justice before the Court. In fact, as already seen, the plaintiffs are effectively represented by lawyers from Chennai and even from the averments in the transfer petition, it is not the case of the plaintiffs that none of the members of Poonamallee Bar Association are willing to appear. The averment is only that a majority of members are not willing to appear for the plaintiffs.

9. This Court can also take judicial notice of the fact that Poonamallee is only in the outskirts of Chennai city and many lawyers who have active practice in Chennai Courts are attending matters in the subordinate Courts at Poonamallee. The plaintiffs also have engaged such counsel for instituting the suit before the Trial Court. Therefore, I do not see any necessity for acceding to the request for transfer on the grounds of mere apprehension.



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10. With regard to the decisions relied on by the learned counsel for the petitioners, in *Maneka Sanjay Gandhi's case*, no doubt the Hon'ble Supreme Court has held that assurance of a fair trial is the first imperative of dispensation of justice. It was a case of defamation and in a particular Court, the entire Bar for reasons of hostility or otherwise refused to appear and defend the accused. Taking into account such an extraordinary situation, the Hon'ble Supreme Court in fact only dismissed the transfer petition despite the case having gained sensation at that point of time. The Hon'ble Supreme Court only directed the Magistrate to take such measures to ensure that the Courts function free and fair and agitational or muscle tactics do not yield any dividends. The facts of the said case will therefore have no application to the facts of the present case.

11. In *Dr. Subramaniam Swamy's case*, the Hon'ble Supreme Court, again in a suit for defamation, has held that the Supreme Court has power to transfer any suit, appeal or proceeding at any stage from High Court or other civil Court in one State to High Court or other Court of another State, if it is satisfied that such an order is expedient for ends of justice. The Hon'ble Supreme Court further held that the question of expediency would depend on the facts and circumstances of each case and paramount consideration for exercise of power



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must be to meet the ends of justice. The defamation suit had been filed before the Bombay High Court against the defendant who was the petitioner before the Hon'ble Supreme Court. The Hon'ble Supreme Court, took note of the fact that the petitioner before it was a politician, serving his 4th term as Member of Parliament and held that for the sake of convenience, oral and documentary evidence regarding the alleged scandalous deeds would be available in Karnataka, more particularly, in Bangalore and not Bombay, proceeded to entertain the transfer request. This decision again would not come to the rescue of the present revision petitioners.

12.In view of the above, I do not find any necessity warranting transfer of the suit from the file of the II Additional District and Sessions Judge, Thiruvallur, Poonamallee, to City Civil Court, Chennai.

13.In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs.

18.07.2025

Speaking/Non-speaking order
Index : Yes/No
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P.B.BALAJI.J.

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To

The II Additional District and Sessions Judge, Thiruvallur, Poonamallee.

Pre-delivery order made in
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18.07.2025