



Tr.C.M.P.No.1386 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.01.2025**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Tr.C.M.P.No.1386 of 2024
& C.M.P.No.29749 of 2024

Saravana Kumar

.. Petitioner

Vs

M/s.Bhala Industries,
Represented by its Partner A.Balaganesan,
No.7/441A, Iduvai, Iduvai Post,
Tiruppur-641 687.

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., withdraw O.S.No.89 of 2022 along with I.A.No.3 of 2023 from the file of the Principal Subordinate Court at Tiruppur and transfer to some other Court at Madurai.

For Petitioner : Ms.P.Kavitha

ORDER



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This transfer petition seeks transfer of O.S.No.89 of 2022 along with I.A.No.3 of 2023 from the file of the learned Principal Subordinate Judge at Tiruppur to any other Court in Madurai.

2. The transfer petitioner is the defendant in the suit. O.S.No.89 of 2022 has been presented for amounts due on grounds of goods sold and delivered by the plaintiff to the defendant. The defendant has filed a counter claim in the said suit. The counter claim has been numbered as I.A.No.3 of 2023. The counter claim and the suit are being adjourned regularly.

3.It is the case of the transfer petitioner that the plaintiff has not filed a counter to the counter claim and yet, he has not been set *exparte* in the said proceedings. Their plea is that the matter has been adjourned repeatedly and the learned Principal Subordinate Judge is not passing orders in the counter claim. Therefore, they seek for transfer.

4.I have carefully considered the submissions of Ms.P.Kavitha and perused the entire records.

5.In terms of Order VIII Rule 6A of the CPC, the procedure for



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trying of a counter claim has been set out. A counter claim is literally a cross suit to the suit presented by the plaintiff. Unless and until the suit itself is dismissed for default, the issue of trying the counter claim separately does not arise. The recording of evidence in the suit and the counter claim proceeds simultaneously. It is only on that ground the learned Trial Judge adjourned the suit and the counter claim together. When he has followed the procedure contemplated by law, I do not find any reason to transfer the suit out of Tiruppur and that too to Madurai.

6.In the light of the above discussions, the transfer civil miscellaneous petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.01.2025

Index:Yes/No
Speaking order/Non-speaking order
Neutral Citation:Yes/No
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V. LAKSHMINARAYANAN,J.



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To
The Principal Subordinate Judge at Tiruppur.

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