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Tr.C.M.P(MD)No.433 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12.03.2025

Pronounced on : 27.03.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.433 of 2024

and

C.M.P(MD)No.9464 of 2024

1.Urmila Bhuvanesh
2.Poornima Sivaprasad
3.Vikranth Gopula

... Petitioners

Vs.

1.Gokulnath
2.P.M.Manorama

... Respondents

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 r/w 151 of the Code of Civil Procedure, to withdraw and transfer O.S.No.1007 of 2022 on the file of the Principal District Munsif Court, Madurai to be tried along with Probate O.P.No.154 of 2023 on the file of the I Additional District Court, Madurai.

For Petitioners	: Mr.R.G.Shankar Ganesh
For R1	: No Appearance
For R2	: Mr.J.Barathan



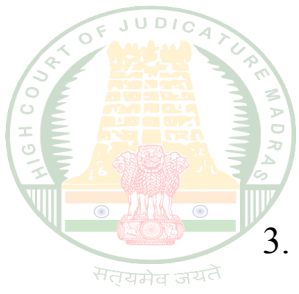
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ORDER

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This petition is filed by the petitioners U/s.24 of CPC seeking for an order to withdraw the case in O.S.No.1007 of 2022 from the file of the Principal District Munsif Court, Madurai and to transfer the same to the file of the I Additional District Court, Madurai to be tried along with Probate O.P.No.154 of 2023.

2. The learned counsel for the petitioners has submitted that the petitioners are in legal possession and enjoyment of their properties comprised in S.No.57/1C, 58/8C and 58/7 of Kochadai village, Madurai District. Since there was interference by the first respondent, they have filed a suit in O.S.No.1007 of 2022 on the file of the Principal District Munsif Court, Madurai Town, for the relief of permanent injunction against the first respondent. The first respondent with malafide intention filed a Probate O.P.No.154 of 2023 before the I Additional District Court, Madurai, against the second respondent, falsely alleging that a Will was executed in his favour by the owner of the properties. On receipt of the summons in that petition, the second respondent intimated the facts to the petitioners. Since the subject matter of suit and probate petition in respect of the same properties, both cases have to be tried by the same Court. Therefore, the present petition is filed.



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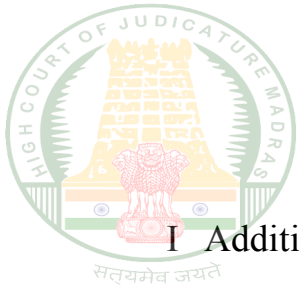
3. The learned counsel for the second respondent has submitted that on

the side of the second respondent there is 'No objection'.

4. Despite sufficient notice served, the first respondent did not appear and hence, the name of the first respondent was printed in the cause list. However, on the side of the first respondent there is no representation.

5. On hearing both sides and on perusal of records, the petitioners have filed a copy of plaint in O.S.No.1007 of 2022 and copy of the petition in Probate O.P.No.154 of 2023 along with typed set. The records would show that there are the suit proceedings and probate proceedings in respect of the same properties originated from one S.V.S.Sivanath. If both cases are conducted by different Courts, there would be a chance of conflicting decisions. Moreover, on the second respondent's side, there is no objection. In spite of opportunities given, there is no representation on the first respondent's side. Considering the above facts and circumstances, this Court is inclined to allow this petition.

6. In the result, this Transfer Civil Miscellaneous Petition is allowed. The suit in O.S.No.1007 of 2022 on the file of the Principal District Munsif Court, Madurai Town, is hereby withdrawn and transferred to the file of the



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I Additional District Court, Madurai, for joint trial along with Probate O.P.No.154 of 2023 and for disposal in accordance with law. The learned Principal District Munsif, Madurai Town, is directed to transmit the entire records pertaining to the suit in O.S.No.1007 of 2022 to the transferee Court, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

27.03.2025

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

To

- 1.The Principal District Munsif Court,
Madurai Town.
- 2.The I Additional District Court,
Madurai.
- 3.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
Tr.C.M.P(MD)No.433 of 2024
and
C.M.P(MD)No.9464 of 2024

27.03.2025