



Tr.C.M.P(MD).No.681 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.12.2024

Delivered on : 24.01.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD).No.681 of 2024

and

C.M.P(MD)No.16328 of 2024

Pushparani

: Petitioner

Vs.

1.Amutha

2.E.M.S.Sukumaran

3.V.Subha

4.Santhi

5.The Sub Registrar,
Sub Registrar Office,
Y.Othakadai,
Having Office at
Thirumohoor Road, Rajagampeeram,
Y.Othakadai, Madurai District.

6.The Block Development Officer,
Madurai East Panchayat Union,
Madurai.



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7.The Tahsildar,
East Taluk, Taluk Office,
Othakadai, Madurai.

8.State rep.by the District Collector,
Madurai District,
Having Office at
Collectorate Buildings,
Madurai 625 020.

: Respondents

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w 151 of Civil Procedure Code, to withdraw the suit in O.S.No.223 of 2018 on the file of the District Munsif Court, Melur and transfer the same to the V Additional District Court, Madurai to try along with the suit in O.S.No.425 of 2022.

For Petitioner : Ms.S.Prabha

For Respondents : Mr.S.P.Prabakaran, for R2.

: Mr.B.Saravanan,
Additional Government Pleader, for R5 to R8.

: No Appearance, for R1, R3 and R4.

ORDER

The Transfer Civil Miscellaneous Petition has been filed seeking orders to withdraw the suit in O.S.No.223 of 2018 on the file of the District Munsif Court, Melur and transfer the same to the V Additional District Court, Madurai to try along with the suit in O.S.No.425 of 2022.



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2. The petitioner is the eighth defendant in O.S.No.223 of 2018 and the plaintiff in O.S.No.425 of 2022.

3. The case of the petitioner is that the properties originally belonged to one Malaisamy father of the petitioner and the respondents 1 to 5 ancestrally; that the petitioner has a share in the properties as a member of the Hindu Joint Family; that their father died in the year 1996 and their mother Rakkammal died in the year 2021; that the petitioner, after the demise of her mother, demanded her share in the family properties, but they have not come forward to partition the property; that the petitioner, in the meanwhile came to know that some of the brothers made some encumbrances in respect of the family properties and she also came to know about the filing of the suit by some of the respondents without adding the petitioner as a party to the said suit; that the petitioner has then filed a suit for partition and declaration in O.S.No.425 of 2022 and the same is pending on the file of the V Additional District Court, Madurai and that the suit in O.S.No.223 of 2018 on the file of the District Munsif Court, Melur may be transferred to the V Additional District Court, Madurai to try along with the suit in O.S.No.425 of 2022 filed by the petitioner.



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4. The second respondent has filed a counter statement raising objections whereunder, it has been stated that the second respondent has purchased the suit property for valuable consideration from one K.M.Kannan on 05.03.2014; that the said property was the ancestral property belonging to one Malaisamy father of the petitioner and the first respondent and his three sons; that the said Malaichamy entered into a partition in 1975 through settlement registered documents and the said property was allotted to the share of minor son Mohan; that the said Mohan after attaining majority had given power to one Jeyanthirapandian, vide power of attorney deed, dated 27.09.2010; that the said power agent has sold out the suit property to one Venkatachalakumar vide sale deed, dated 02.05.2012, who in turn sold the property in favour of one Kannan in the year 2014; that the second respondent moved the planning authority for layout approval and obtained the same; that the first respondent has raised objections before the sixth respondent and the sixth respondent sustaining the objections has suspended the earlier approval granted in favour of the second respondent and that therefore, he filed a writ petition in W.P.(MD)No.9063 of 2022 and in that order, this Court directed the learned District Munsif, Melur to dispose of both the suits in O.S.No.223 of 2018 and O.S.No.358 of 2018 within a period of 12 weeks from the date of



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receipt of copy of this order; that the second respondent has already filed a suit in O.S.No.69 of 2019 to delete the encumbrance in the mortgage deed entry, dated 21.02.2011 registered with the fifth respondent is null and void; that the petitioner, in collusion with the brothers and sisters, to drag on the proceedings, filed a suit in O.S.No.425 of 2022 on the file of the V Additional District Court, Madurai, wherein she has impleaded 38 respondents; that the other suits pending before the District Munsif Court, Melur are in trial stage and that the transfer petition is misconceived and hence, the same is liable to be dismissed with exemplary cost.

5. It is evident from the records that the first respondent has filed a suit in O.S.No.223 of 2018 against the respondents 2 to 7 to declare that the sale deeds, dated 08.09.2014, 08.03.2018, 29.08.2018 and the proceedings of the fifth respondent in Na.Ka.No.1540/2017 are null and void and for permanent injunction restraining the first defendant from creating any alienation or encumbrance of the suit property and for permanent injunction against the defendants 2 and 3 from putting up any constructions in the said property and the same is pending on the file of the District Munsif Court, Melur.



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6. It is pertinent to note that the petitioner has filed the suit in O.S.No.425 of 2022 against 38 persons for partition and allotment of 1/6 share in the suit property and to declare that 41 sale deeds and the documents, dated 02.05.2022 as invalid and for permanent injunction restraining the defendants from making any constructions in the suit property and for mandatory injunction, directing the 13th defendant to disconnect the electricity connection given to the 15th defendant and the same is pending on the file of the V Additional District Court, Madurai.

7. It is not in dispute that the 5th respondent has filed a suit in O.S.No. 358 of 2014 and the same is pending on the file of the District Munsif Court, Melur, seeking partition and to declare that the power deed and sale deeds as null and void and that the 10th respondent has filed a suit in O.S.No.69 of 2019 to declare that the document executed by the fourth defendant as null and void and the same is pending on the file of the District Munsif Court, Melur.

8. It is pertinent to note that the tenth respondent has filed a writ petition in W.P.(MD)No.9063 of 2024, challenging the cancellation of



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approval obtained from DTCP, Madurai and this Court, vide order, dated 28.06.2022, directed the learned District Munsif to dispose the both suits in O.S.No.223 of 2018 and O.S.No.214 of 2018 on merits and in accordance with law within a period of 12 weeks from the date of receipt of copy of that order.

9. According to the petitioner, he was not added as a party in O.S.No. 358 of 2018 as well as in O.S.No.69 of 2019.

10.The learned counsel for the respondent would submit that in pursuance of the directions of this Court, trial in O.S.No.223 of 2018 and O.S.No.214 of 2018 had already commenced and that the suit filed by the petitioner in O.S.No.425 of 2022 is pending for filing of written statement.

11. As already pointed out, the petitioner has sought for declaration as 41 sale deeds as invalid and for other reliefs. Admittedly, the suit in O.S.No. 425 of 2022 came to be filed only in the year 2022, whereas the other suits were pending from 2018 and that too, at different stages.



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12. The main objections raised by the respondents' counsel is that the petitioner, after filing the suit in 2022, has been attempting to stall the proceedings in the said suits pending on the file of the District Munsif Court, Melur and further to drag on the matter, the present transfer petition came to be filed.

13. Considering the entire facts and circumstances of the case, this Court finds some merit in the contention of the respondents. Moreover, the petitioners have not made out any valid ground or reason to transfer the suits for trying along with the suit in O.S.No.425 of 2022 and as such, this Court concludes that the transfer petition is absolutely devoid of merits and the same is liable to be dismissed.

14. In the result, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

24.01.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
das



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To

- 1.The District Munsif, Melur.
2. The V Additional District Judge, Madurai.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

DAS

Order made in
Tr.C.M.P (MD).No.681 of 2024
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