



Tr.C.M.P.(MD)Nos.640 and 643 of 2024

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Reserved on : 03.01.2025

Pronounced on : 24.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P.(MD)Nos.640 and 643 of 2024
and
C.M.P.(MD)Nos.15271 and 15465 of 2024

R.Velmurugan

... Petitioner in
Tr.CMP(MD)
No.640 of 2024

V.Umadevi

... Petitioner in
Tr.CMP(MD)
No.643 of 2024

Vs.

Balamani @ Balusamy

... Respondent in
Tr.CMP(MD)
No.640 of 2024

S.Padmavathi

... Respondent in
Tr.CMP(MD)
No.643 of 2024

Common Prayer : These Transfer Civil Miscellaneous Petitions filed under Section 24 C.P.C., to withdraw and transfer the suits in O.S.Nos.68



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and 67 of 2024 from the file of the learned IV Additional District Court, Udumalpet to (any of the) District Court at Madurai.

(in both the petitions)

For Petitioner : Mr.S.Vedachalam

For Respondent : Mr.K.Mu.Muthu

COMMON ORDER

The Transfer Civil Miscellaneous Petition in Tr.C.M.P.(MD)No.640 of 2024 is filed to withdraw the case on the file of the IV Additional District Court, Udumalpet, in O.S.No.68 of 2024 and transfer the same to any of the District Court at Madurai.

2. The Transfer Civil Miscellaneous Petition in Tr.C.M.P.(MD)No. 643 of 2024 is filed to withdraw the case on the file of the IV Additional District Court, Udumalpet, in O.S.No.67 of 2024 and transfer the same to any of the District Court at Madurai.

3. The defendant in O.S.No.68 of 2024 and the defendant in O.S.No. 67 of 2024 are the petitioners in the present transfer petitions, who are the husband and wife.



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4. The respondent in Tr.C.M.P.(MD)No.640 of 2024 Balamani @ Balusamy (hereinafter called as 'Plaintiff Balamani') has filed a suit in O.S.No.68 of 2024 for recovery of Rs.20,81,400/- due on the promissory note alleged to have been executed by the petitioner in Tr.C.M.P.(MD)No. 640 of 2024 Velmurugan (hereinafter called as 'Defendant Velmurugan') with interest and costs and the same is pending on the file of the IV Additional District Court, Udumalpet. The respondent in Tr.C.M.P.(MD) No.643 of 2024 Padmavathi (hereinafter called as 'Plaintiff Padmavathi'), who is the wife of Plaintiff Balamani, has filed a suit in O.S.No.67 of 2024 for recovery of Rs.10,47,000/- due on the promissory note alleged to have been executed by the petitioner in Tr.C.M.P.(MD)No.643 of 2024 Umadevi (hereinafter called as 'Defendant Umadevi') with interest and costs and the same is pending on the file of the IV Additional District Court, Udumalpet.

5. The case of the petitioners/defendants is that Defendant Umadevi borrowed a sum of Rs.1 lakh from Plaintiff Balamani in December 2018 and again borrowed Rs.2 lakhs in July-2021, Rs.3 lakhs in August-2021 and Rs.1 lakh in November-2021, totalling Rs.7 lakhs, that Defendants



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Umadevi and Velmurugan have given unfilled stamped signed promissory notes, unfilled stamped signed cheques, unfilled signed Rs.20/- stamp papers, original title deeds of the property belonging to Defendant Velmurugan and xerox copy of the title deeds of immovable properties belonging to Defendant Umadevi as security for the above loan transactions, that Plaintiff Balamani has filed a suit against Defendant Velmurugan in O.S.No.68 of 2024 alleging that he had executed a promissory note for Rs.20 lakhs and filed another suit in O.S.No.67 of 2024 through his wife Plaintiff Padmavathi against Defendant Umadevi alleging that she borrowed a sum of Rs.10 lakhs from her, that Plaintiff Balamani had set up one Manikumar and filed two other suits in O.S.Nos. 222 and 223 of 2024 against them and also set up other persons to file two complaints under Section 138 of Negotiable Instruments Act, that though Defendant Velmurugan has borrowed Rs.7 lakhs and the said loan was already discharged, Plaintiff Balamani has been filing cases after cases, that Defendants Velmurugan and Umadevi are residing at Madurai and find it very difficult to defend the cases at Udumalpet and that therefore they were constrained to file the present transfer petitions for transferring the suits from the file of the IV Additional District Court, Udumalpet to



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any of the District Court at Madurai.

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6. The Plaintiffs Balamani and Padmavathi have filed separate counter affidavit raising objections and further stated that Defendant Velmurugan had obtained a loan for Rs.20 lakhs and executed a promissory note at Plaintiff Balamani's house at Tiruppur, that since the loan was not repaid after issuance of legal notice, Plaintiff Balamani filed the suit in O.S.No.68 of 2024 and is pending on the file of the IV Additional District Court, Udumalpet, that since Defendant Velmurugan was taking steps to alienate the property, Plaintiff Balamani filed two applications in I.A.No.2 of 2024 for interim injunction restraining the alienation and I.A.No.3 of 2024 for attachment before judgment, that Defendant Umadevi has obtained loan of Rs.10 lakhs from Plaintiff Padmavathi and executed a promissory note at their house at Tiruppur, that since the amount was not paid after issuance of legal notice, the suit was filed in O.S.No.67 of 2024, that the cause of action for the suits arose at Tiruppur and hence, rightly filed suits before the Courts at Udumalpet and that since Defendants Velmurugan and Umadevi have not canvassed any valid reasons or grounds for transferring the petitions, the same are liable



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to be dismissed.

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7. The learned counsel appearing for the petitioners/defendants would submit that as per Section 20 CPC, suit is to be filed at the place where the defendants resides or carries on business, that both the defendants are residing at Madurai, that Defendant Velmurugan is working as a driver in TNSTC, Madurai, that the property against which injunction and attachment was sought for is situated at Madurai, that they are finding it difficult to travel from Madurai to Udumalpet to attend the hearings and that therefore they were constrained to file the above transfer petitions.

8. The learned counsel appearing for the respondents/plaintiffs would submit that Section 20(c) CPC stipulates that the suit can be filed where the cause of action wholly or in part arises, that the petitioners/defendants borrowed loans at the respondents/plaintiffs' house at Tiruppur District and that since cause of action arose in that place, the suits were rightly laid before the Courts at Udumalpet.

9. Admittedly, the respondents/plaintiffs have filed suits against the



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petitioners/defendants for recovery of money due on the promissory notes alleged to have been executed by them and the same are pending before the IV Additional District Court, Udumalpet.

10. The main contention of the petitioners/defendants is that Plaintiff Balamani had utilized the unfilled signed documents and by setting up other persons filed civil cases as well as complaints under Section 138 of Negotiable Instruments Act through other persons and that therefore they are finding it difficult to defend the cases at Udumalpet. Whether the above defence putforth by the petitioners/defendants is true or not can only be gone into, in the suits pending before Udumalpet Court and the same cannot be gone into in the present transfer petitions.

11. Section 20 CPC contemplates that the suits can be instituted where the defendants reside or cause of action arises. Though the petitioners/ defendants are residing at Madurai, the respondents/plaintiffs, by referring that cause of action arose at the place of borrowal, filed the suits before the Courts at Udumalpet.



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12. As rightly relied on by the learned counsel appearing for the respondents/plaintiffs, the Hon'ble Supreme Court in ***Dr.Subramaniam Swamy Vs. Ramakrishna Hegde*** reported in ***1990 (1) SCC 4*** has held that if more than one court has jurisdiction under the Code to try the suit, the plaintiff as *dominus litis* has a right to choose the Court and the defendant cannot demand that the suit be tried in any particular court convenient to him and that the mere convenience of the parties or any one of them may not be enough for the exercise of power but it must also be shown that trial in the chosen forum will result in denial of justice.

13. The Hon'ble Supreme Court in ***Nahar Industrial Enterprises Ltd. Vs. Hongkong & Shanghai Banking Corp*** reported in ***(2009) 8 SCC 646*** relied on by the learned counsel appearing for the respondents, has held that the plaintiff is the *dominus litus* and he may institute a suit having regard to the provisions contained in Sections 16 to 20 of the Code of Civil Procedure in any civil court within whose jurisdiction inter alia a cause of action arises and that if the jurisdiction of the civil court is not barred or if he having regard to common law principle is entitled to maintain an action in two different forums, he may choose one of them.



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14. The respondents being the plaintiffs and *dominus litus* have chosen the place where the cause of action had arisen and as such, the same cannot be found fault with.

15. The petitioners have not shown that proceeding with the cases at IV Additional District Court, Udumalpet will result in denial of justice. The petitioners have also not given any other valid reasons or grounds for transferring the cases. Considering the above, this Court has no hesitation to hold that the above petitions are absolutely devoid of merits and the same are liable to be dismissed.

16. In the result, these Transfer Civil Miscellaneous Petitions stand dismissed. Consequently, connected Miscellaneous Petitions are closed.

24.01.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
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K.MURALI SHANKAR,J.

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To

1. The IV Additional District Judge,
Udumalpet.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

Pre-Delivery Common Order made in
Tr.C.M.P.(MD)Nos.640 and 643 of 2024
and
C.M.P.(MD)Nos.15271 and 15465 of 2024

Dated : 24.01.2025