

Tr.C.M.P(MD).No.1 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on : 28.04.2026

Delivered on : 05.06.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD).No.1 of 2026

S.Nagarajan

: Petitioner

Vs

K.Jeyachandran

: Respondent

Prayer : This Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., praying to withdraw the entire proceedings in O.S.No.157 of 2019 pending before the Sub Court, Usilampatti and transfer the same to the Principal Sub Court, Madurai or any other appropriate Court.

For Petitioner : Mr.K.Suresh Kumar,

For Respondent : Mr.J.Senthil Kumaraiah.

ORDER

The Civil Miscellaneous Petition has been filed seeking orders to withdraw the entire proceedings in O.S.No.157 of 2019 pending before the Sub Court, Usilampatti and transfer the same to the Principal Sub Court, Madurai or any other appropriate Court.



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WEB COPY 2. It is not in dispute that the petitioner filed a suit in O.S.No.157 of 2019, claiming the reliefs of declaration, recovery of possession, mandatory and permanent injunction and the same is pending on the file of the Sub Court, Usilampatti.

3. The petitioner's case is that he originally filed a suit in O.S.No.519 of 2016, before the III Additional Sub Court, Madurai and during the pendency of the suit, an Advocate Commissioner was appointed in I.A.No.421 of 2016, to note down the physical features of the suit property; that the petitioner had paid remuneration to the Advocate Commissioner and the Commissioner inspected the property along with surveyor on 14.04.2018; that since the respondent had threatened the Commissioner, the Commissioner sought police protection and that since the respondent had also made certain false allegations against the Advocate Commissioner, he returned the warrant along with his report on 14.06.2018.

4. It is the further case of the petitioner that the trial Court at Madurai appointed another Advocate Commissioner that upon payment of the remuneration by the petitioner, the Commissioner inspected the property



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along with his surveyor on 06.07.2019, but the respondent restrained and made obstruction to survey the suit property and hence, the Commissioner was constrained to seek police protection and the trial Court directed the Usilampatti Town Police Station to give adequate police protection for the Commissioner's visit and that subsequently, regular Sub Court was established at Usilampatti and the suit and the Commissioner's application were transferred and re-numbered as I.A.No.65 of 2020 in O.S.No.157 of 2019; that the Sub Court, Usilampatti appointed another Advocate Commissioner and since the said Advocate was stated to be practising in the same Office as that of the respondent, the petitioner preferred a revision in C.R.P.(MD)No.2132 of 2024 and this Court by setting aside the appointment of the third Commissioner by the trial Court, appointed another Advocate Commissioner and now the suit is pending for filing of Commissioner's report.

5. The learned counsel appearing for the petitioner would submit that the respondent is a practising Advocate before the Sub Court, Usilampatti and also the Secretary of the Bar Association, Usilampatti, that he has been restraining the Advocate Commissioners from executing the warrants and is protracting the proceedings from 2019 onwards and that therefore, the petitioner was constrained to file the above transfer petition.



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WEB COPY 6. The learned counsel for the petitioner has produced the copies of memo filed by the earlier Advocate Commissioners, returning the warrants.

7. The learned counsel for the respondent would submit that the respondent has never restrained any Advocate Commissioner from executing the warrants; that the suit, which was filed originally before the Sub Court Madurai was transferred to the Usilampatti Sub Court and is pending for trial; that the respondent has always been ready to proceed with the trial and hence, the contention that the respondent has been dragging on the proceedings, is false and untenable and that a time limit may be stipulated for the disposal of the above suit.

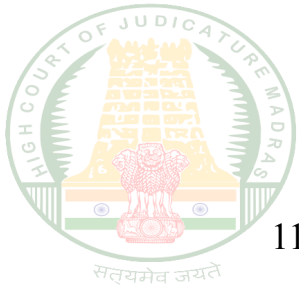
8. It is not in dispute that the respondent is a practising advocate before the Sub Court, Usilampatti and that he is an office bearer of the Bar Association of Usilampatti. It is also not in dispute that the three Advocate Commissioners were appointed by the trial Court and as of now, a fourth Advocate Commissioner has been appointed and that the suit is pending for filing of the Commissioner's report.



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WEB COPY 9. Considering the entire facts and circumstances and also taking note of the appointment of multiple Advocate Commissioners and the repeated return of the Commissioner's warrants, this Court is of the view that the suit in O.S.No.157 of 2019, deserves to be transferred to the file of the Principal Sub Court Madurai, in order to ensure a fair trial and to secure the ends of justice.

10. Accordingly, the suit in O.S.No.157 of 2019, is ordered to be withdrawn from the file of the Sub Court, Usilampatti and transfer the same to the Principal Sub Court, Madurai. The learned Subordinate Judge, Usilampati, is hereby directed to transmit the entire records in O.S.No.157 of 2019 to the file of the Principal Sub Court, Madurai, within a period of 10 days from the date of receipt of a copy of this order and on receiving the case bundle, the learned Principal Subordinate Judge, Madurai, is directed to take up the suit on file and proceed in accordance with law. The learned Advocate Commissioner is directed to file the report within one month from the date of taking up the suit on file by the Principal Subordinate Court and thereafter, the Principal Subordinate Judge is directed to expedite the trial and dispose of the suit within a period of three months thereafter.



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11. With the above direction, the Transfer Civil Miscellaneous Petition stands allowed. No costs.

05.06.2026

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

To

- 1.The Sub Court, Usilampatti.
- 2.The Principal Sub Court, Madurai.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

das

Pre-delivery order made in
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