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**Laila Banu Vs. Devadoss and Others**

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**SooperKanoon Citation** : sooperkanoon.com/1187696

**Court** : Chennai Madurai

**Decided On :** Oct-21-2016

**Judge** : S.M. Subramaniam

**Appeal No.** : TR.C.M.P (MD) No. 324 of 2010 & M.P (MD) No.1 of 2010

**Appellant** : Laila Banu

**Respondent** : Devadoss and Others

**Judgement** :

(Prayer: Petition filed under Section 24 of Civil Procedure Code to withdraw the appeal suit in A.S.No.97 of 2010 pending before the Principal Sub Court, Tirunelveli and the same has to be transferred and tried along with the second appeal in S.A.No.737 of 2010 on the file of the Madurai Bench of Madras High Court.)

1. The present petition is filed with a prayer to transfer the appeal suit in A.S.No.97 of 2010 pending before the Principal Sub Court, Tirunelveli, to the Madurai Bench of Madras High Court and to be tried along with S.A.No.737 of 2010.

2. The contention of the petitioner is that the appeal suit in A.S.No.97 of 2010 filed by the first respondent against the Judgment and Decree passed in O.S.No.333 of 2006 is posted for hearing in the list and the case was posted before the Principal Sub Court, Tirunelveli, which decided the appeal in A.S.No.13 of 2010 arising out of its Judgment in O.S.No.321 of 2006. Further, the petitioner pleaded that in the

interest of both the parties, the appeal suit in A.S.No.97 of 2010 has to be transferred and posted along with second appeal in S.A.No.737 of 2010, which is pending before this Court.

3. The learned counsel appearing for the first respondent contended that such a transfer application is not maintainable and cannot be entertained and the issues has to be decided separately both in appeal suit and separately in second appeal. The scope of the second appeal pending before this Court is different and the scope of the first appeal pending before the Principal Sub Court, Tirunelveli is entirely different and therefore, this petition deserves no consideration and liable to be dismissed.

4. The respective counsels both for the petitioner and the first respondent are heard.

5. Considering the arguments of the respective counsels both for the petitioner and first respondent, this Court is not inclined to entertain the petition for transfer, especially to transfer the appeal suit in A.S.No.97 of 2010 to be tried along with second appeal in S.A.No.737 of 2010 pending before this Court.

6. Accordingly, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous petition is also closed.

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