

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
COIMBATORE**

Present: Tmt. G. VIJAYA, B.A., M.L., PGDCFS
Principal District Judge, Coimbatore.

Wednesday, this the 11th day of March, 2026

(திருவள்ளூர்வராண்டு, 2057, விசுவாவசு ஆண்டு மாசி திங்கள் 27-ஆம் நாள் புதன்கிழமை)

TRANSFER ORIGINAL PETITION No.342/2024
(CNR No.TNCB010117282024)

Venkatachalapathy

Proprietor, Shri Balaji Cotton Company

... Petitioner

//vs//

1. S.P. Muthuraman
2. K. Narayanasamy
3. V. Jeganathan
4. M/s. Shree Yellamma Spinning Mill
A Partnership Firm,
Rep. by its Partner Muthuraman.S.P.
5. Thangaraj
6. P. Indrani
7. Renugadevi
8. N. Amsaveni

... Respondents

This petition came before me for final hearing on 24-02-2026 in the presence of **Thiru.Iyalpari**, Advocate for the petitioner and of **Tvl.R.Sivakumar and S.Ma Se Thung**, Advocates for the respondents No.1, 2, 4 and 8, though the respondents No.1, 2, 4 and 8 entered appearance through their counsel, no representation for the respondents No.1, 2, 4 and 8, respondents No.1, 2, 4 and 8 were called absent and set exparte, and of **Tvl.S.Chandrasekaran and C.Jaiy Chandhar**, Advocates for the 5th

respondent, and of **Thiru.P.Shri Santhaji**, Advocate for the respondents No.3, 6 and 7 and upon hearing arguments of both sides, perusing the petition, counter and other relevant records and having stood over for consideration till this day, this Court passes the following:

ORDER

This petition has been filed by the petitioner, u/s.24 of CPC, praying to transfer the suit in O.S.No.559/2024 which is pending on the file of the Principal District Munsif, Coimbatore, to the file of the I Additional District Judge, Coimbatore, to be tried along with the suit in O.S.No.1202/2023 pending therein.

2. Averments contained in the petition :

(i) The petitioner is proprietary concern who has filed a suit for recovery of money against the 4th respondent firm and its partners viz., respondents 1 to 3 and late Venkitasamy and Devaraj in COS No.8 of 2023 on the file of Commercial Court (District Judge Cadre), Coimbatore. The said suit was decreed in exparte on 20-07-2023 and thereafter the suit was restored and decreed again on 25-04-2024.

(ii) After the suit was decreed exparte, the petitioner sought to attach the 4th defendant firm and its partners viz., respondents 1 to 3 and late Venkitasamy

and Devaraj and was shocked to find out that most of the properties were encumbered with an intent to delay and defeat the creditors such as the petitioner herein. Therefore, challenging the transfers effected by respondents 1 to 3 and late Venkitasamy and Devaraj suit in O.S.No.1202 of 2023 was filed and the same was pending on the file of I Additional District Coimbatore and the same is posted for Written Statement on 24-10-2024.

(iii) One item of property which came to be remaining in the name of 2nd respondent was sought to be attached and sold through E.P.No.1/2023 to execute the exparte decree in COS No. 8 of 2023. After the exparte decree was set aside, the respondents herein colluded and effected transfer of the property sought to be attached in E.P.No.1/2023 to and in favor of 5th respondent herein. As against the fraudulent transfer of the property effected by 2nd respondent in favor of 5th respondent, the suit in O.S.No.559/2024 was filed and the same is pending on the file of Principal District Munsif, Coimbatore and the same is posted for Written statement on 29-10-2024.

(iv) The 5th respondent herein is a transferee in a fraudulent transaction made with an intention to defeat the interests of creditors. Further, the 8th respondent is the wife of the 2nd respondent and is also a transferee in a fraudulent transaction made with an intention to defeat the interests of creditors. The 7th respondent is the wife of the Partner Devaraj while, the 6th Respondent is the

wife of 3rd Respondent and has been added for proper adjudication as she was a party to the suit in COS No. 8 of 2023. Both the suits are involving challenge to transfers made by the 4th Respondent firm and its partners to defeat the interests of creditors. Further cause of action for both suits are identical and similar. Though the suit properties are different, the parties involved in both the suits are one and the same and the issues that has to be decided and oral and documentary evidence that has to be adduced in both the suits are identical and similar. Under the said circumstance, if the suits tried separately, it will lead to conflicting judgment and confusion and hence, the petitioner prays to allow the petition.

3. Notice to the respondents No.1, 2, 4 and 8 served. Though the respondents No.1, 2, 4 and 8 entered appearance through their counsel, despite of several opportunities, they have not chosen to file counter. No representation for the respondents No.1, 2, 4 and 8 and hence, respondents No.1, 2, 4 and 8 were called absent and set exparte on 21-01-2026.

4. The 3rd respondent filed counter and the same has been adopted by the respondents No.6 and 7. The averments contained in the counter are as follows:-

(i) The above transfer petition is false, frivolous, vexatious and unsustainable both in law and facts. The averments made in the transfer petition

are denied as false, baseless, and misleading except those that are specifically admitted herein. The petitioner is guilty of suppressio veri and suggestio falsi. The present transfer petition is an abuse of process of law, filed only with an ulterior motive to harass the respondents and to unnecessarily delay the proceedings in O.S.No.559/2024 pending before the learned Principal District Munsif, Coimbatore.

(ii) The claim of the petitioner that the cause of action in both suits is the same is wholly denied. The properties, the reliefs sought, and the factual matrix in both suits are distinct and separate. The suit in O.S.No.559/2024 involves a separate cause of action and an independent alleged transaction.

(iii) The allegation that Respondents 3, 6, and 7 are involved in any fraudulent transfer to defeat the interests of creditors is vehemently denied. The petitioner has not produced any legally acceptable evidence to establish such serious allegations, which are made only to sensationalize the issue and mislead the Court. It is specifically denied that the 6th and 7th respondents are not parties to any fraudulent transaction. The 6th respondent is merely the wife of the 3rd respondent and has no role in the alleged transactions. Likewise, the 7th respondent is the wife of one of the deceased partners and has been unnecessarily roped in and the learned Commercial Court (DJ Level) already the Respondent 6 and 7 relieved in the decree which is passed in COS 8 of 2023 on 25-04-2024. Based on the said decree the above Petitioner filed those suits and also the petitioner has not filed the said decree in the proposed transfer suits.

(iv) The contention that common issues arise in both suits and that there is a possibility of conflicting judgments is denied. The petitioner has failed to demonstrate how a joint trial is necessary or beneficial, especially when the suits are based on different transactions and facts. The Trial Court in O.S.No.559/2024 has already taken cognizance of the suit and proceedings are at an advanced stage. The prayer for transfer at this stage is only to delay the suit and prejudice the rights of the respondents.

(v) The petitioner has not shown any real or substantial cause or legal ground for seeking transfer under Section 24 of the CPC. Mere convenience or apprehension of conflicting judgments, unsupported by facts or legal necessity, is not sufficient for transfer. The present petition is liable to be dismissed with costs as it is wholly devoid of merit and intended to cause prejudice to the answering respondents.

5. Averments contained in the counter statement filed by the 5th Respondent is as follows:

(a) The petition is false, frivolous and unsustainable in law and on facts of the case. The petitioner is put to strict proof of all the allegations except those that are specifically admitted herein.

(b) It is not correct to state that, the petitioner is a proprietary concern who has filed a suit for recovery of money against the 4th respondent firm and its partners viz., respondents 1 to 3 and one late. Venkitasamy and Devaraj in

C.O.S.No.8/2023 on the file of Commercial Court (District Judge Cadre), Coimbatore and that the said suit was decreed in exparte on 20-07-2023 and thereafter the suit was restored and decreed again on 25-04-2024, and that after the suit was decreed exparte, the petitioner sought to attach the 4th respondent firm and its partners viz., respondents 1 to 3 and the said late Venkitasamy and Devaraj, but was shocked to find out that most of the properties were encumbered with an intent to delay and defeat the creditors such as the petitioner and therefore the suit in O.S.No.1202/2023 was filed and the same was pending on the file of 1st Additional District Court, Coimbatore are all stoutly and categorically denied as incorrect by this respondent and the petitioner is put to strict proof of the same.

(c) It is not correct to state that, one item of property which came to be remaining in the name of 2nd respondent was sought to be attached and sold through E.P.No.1/2023 for execution of ex-parte decree in C.O.S.No.8/2023 and that after the said ex-parte decree was set aside, the respondents herein colluded and effected transfer of the property sought to be attached in E.P.No.1/2023 to and in favour of this respondent herein, as against the fraudulent transfer of the property effected by 2nd respondent in favour of this respondent and that the suit in O.S.No.559/2024 was filed and the same is pending on the file of Principal District Munsif, Coimbatore etc., are all stoutly and categorically denied as incorrect by this respondent and the petitioner is put to strict proof of the same.

(d) It is not correct to stated that, this respondent herein is a transferee in a fraudulent transaction made with an intent to defeat the interests of creditors and the 8th Respondent is the wife of the 2nd respondent and is also a transferee in a fraudulent transaction made with an intent to defeat the interests of creditors and the 7th respondent is the wife of the Partner late.Devaraj while, the 6th Respondent is the wife of 3rd respondent and all have been added for proper adjudication as she was a party to the suit in COS No. 8 of 2023 and both the suits were involved in challenge to transfers made by the 4th Respondent firm and its partners to defeat the interests of creditors are all stoutly and categorically denied as incorrect by this respondent and the same is put to the petitioner's strict proof.

(e) It is not correct to state that, the cause of action for both the suits are identical and similar and the intent to defeat the creditors is the basis for both the suits, though the suit properties are different, the parties involved are one and the same and issues to be decided are also identical and similar and that if both the suits are tried separately it will lead to conflicting judgments and confusion etc., are all stoutly and categorically denied as incorrect by this respondent and petitioner is strict proof of the same.

(f) At the outset, both suits are not maintainable in eye of law and on the facts of the case, and the same is liable to be dismissed. Both the suits filed by the petitioner herein miserably fails to prove the very basis for the essence of creditor. Moreover, the present suit is ex-facie not maintainable as per the

petitioner's very own averments about the existence of another private limited company which were not made a party in either of suits and the suits were also not filed in representative capacity on behalf of other creditors if any. Without prejudice, the petitioner also failed to disclose the nature of business transaction between the petitioner and respondents therein and also there were no documentary evidence produced by the petitioner to substantiate the alleged outstanding amount claimed to be payable by respondent nos.1 to 5 along with late.Venkitasamy. Since, the nature of outstanding was not proved in the above suits and also relief sought for in both the suits are not maintainable and the present application to transfer as well as both the suits are liable to be dismissed as against this respondent.

(g) He is a Bonafide purchaser who purchased the both the items of the suit properties with good faith and for valid consideration. The petitioner and all other respondents are all colluded with each other as against this respondent in order to set aside the sale which he obtained from one late. Rajamani, legal heir of late.Venkitasamy and 2nd respondent herein, for valid consideration. Hence, this respondent being true owner of the suit properties and has been in continuous possession and enjoyment of the same ever since the date of his purchase and there is no fraudulent transfer that took place as alleged by the petitioner herein.

(h) The petitioner in collusion with the other respondents, has deliberately instituted both the suits based on an alleged transaction which is said to have

taken place outside the territorial jurisdiction of this Court. Furthermore, the nature of claim in both the suits are also barred under law without prejudice. The petitioner has also approached this Court with unclean hands and filed both the suits by suppressing true facts, which are not maintainable either in law or on facts.

(i) He had purchased the suit properties with great caution by verifying encumbrance certificate and thereby purchased the same by paying valid consideration and has been in possession and enjoyment of the same ever since then. Hence, the petitioner has no cause of action over this respondent and thereby both suits miserably failed to establish any contentions as alleged by the petitioner herein pertaining to the suit properties purchased by this respondent from aforesaid late Rajarnani and the 2nd respondent herein. To the respondent's knowledge, there are no creditors in respect of his vendors viz., Late Rajamani and the 2nd respondent. Hence, this respondent purchased the suit properties under Sale Deeds dated 21.07.2021 and 29.01.2024 are valid and in accordance with law. Therefore, both the suits filed against this respondent is nothing but a misuse and abuse of the process of law and the same deserves to be dismissed in Limini. Without prejudice to the above, the suit properties are different, cause of actions are different, the documents to be produced and relied upon are different, defendants involved are different and the oral evidence as well issues are different and not connected with each other as per plaint pleadings. However, this petition is devoid of merits.

(j) Besides, that the petitioner having known that he has no merits in the above said suits, have filed this present petition to drag the suit as well as to harass this respondent both physically and mentally and make them mend to the demands of the petitioner herein. Hence, the present petition is devoid of merits and the same is untenable in eye of law and on facts of the case and thereby liable to be dismissed with cost.

6. **The point for consideration :**

“Whether the suit in O.S.No.559/2024 which is pending on the file of the Principal District Munsif, Coimbatore, is to be transferred to the file of the I Additional District Judge, to be tried along with the suit in O.S.No.1202/2024, or not?”

POINT:-

7. Heard and perused the relevant records. This petition has been filed by the petitioner, praying to transfer the suit in O.S.No.559/2024 which is pending on the file of the Principal District Munsif, Coimbatore, to the file of the I Additional District Judge, Coimbatore, to try along with the suit in O.S.No.1202/2024 pending therein.

8. Reiterating the averments stated in the affidavit, the learned counsel for the petitioner would argue that, both the suits are involving challenge to transfers made by the 4th Respondent firm and its partners to defeat the interests

of creditors. The learned counsel for the petitioner has further argued that, further cause of action for both suits are identical and similar. Though the suit properties are different, the parties involved in both the suits are one and the same and the issues that has to be decided and oral and documentary evidence that has to be adduced in both the suits are identical and similar and if the suits tried separately, it will lead to conflicting judgment and confusion and prays to allow the petition.

9. Respondents No.1, 2, 4, 8 were called absent and set exparte.

10. During the course of arguments, the learned counsel for the respondents No.3, 6 and 7 vehemently opposed to allow the petition by stating the averments stated in the counter. Further the learned counsel for the respondents No.3, 6 and 7 has stated that suitable orders may be passed.

11. This Court has given its anxious consideration on the submissions of both side and perused the copy of plaints in O.S.No.1326/2012 and O.S.No.1261/2012. On perusal of the same, it appears that, the petitioner herein is a Proprietor of Sri Balaji Cotton Company. The 4th respondent is a Firm. The respondents No.1 to 3, Late Venkitasamy and Devaraj are the partners of the above said Firm. The petitioner has filed COS No.8/2023, against the above said respondents No.1 to 4, Late Venkitasamy and Devaraj and obtained exparte

decree and thereafter, the petitioner sought to attach the properties and at that time, came to know that most of the properties were encumbered with an intention to delay and defeat the creditors such as the petitioner. Therefore, challenging the transfers effected by the above said persons, the petitioner filed O.S.No.1202/2023 against them, seeking the relief of declaration and as of now, the said suit is pending before the I Additional District Court, Coimbatore.

12. The petitioner filed another suit in O.S.No.559/2024, against the respondents No.1 to 6. The petitioner is doing cotton business for the past several years. Respondents No.1 to 3, late Venkitasamy and late Devaraj were partners of the 4th respondent partnership firm. The 4th respondent firm used to purchase cotton and was having business relationship with the petitioner since 2018. During normal course of transactions between the petitioner and the 4th respondent a sum of Rs.1,10,20,708/- is payable by the 4th respondent firm. Despite several request, they have not settled the above said amount. The petitioner filed COS.No.19 of 2020 and during the pendency of the said suit, settlement arrived between the parties and on 27-09-2021, a Memorandum of Understanding entered between the parties. But contra to the above said MOU, the respondents No.1 to 4 have not come forward to act as per the MOU. Thereafter, the respondents managed to close the attachment before judgment application in the said suit and in June, 2023. While so, the said suit was transferred to Commercial Court (District Judge Cadre), Coimbatore and the

said suit was decreed as prayed for. Thereafter, the petitioner obtained plaintiff left with no option proceeded with trial and the said suit was decreed as prayed and thereafter, the petitioner obtained encumbrance certificate and came to know that the properties covered under the MOU have been conveyed surreptitiously and further the petitioner came to know about the intention of the respondents to defeat and delay the creditors such as petitioner. Under the said circumstances, the petitioner filed the suit, seeking the relief of declaration. As of now, the said suit is pending before the Principal District Munsif, Coimbatore.

13. On conjoint reading the averments stated in the complaints, it reveals that dispute between the parties revolves around the commercial transaction entered between the petitioner and the respondents No.1 to 4 and the alleged MOU entered between the parties and also the alleged subsequent transfer of properties by the respondents No.1 to 4. According to the petitioner, in both the suits, cause of action, issues that has to be decided, oral and documentary evidence that has to be adduced are identical and similar and hence, in order to avoid arising of conflict of judgment, it is just and necessary to try both the suits in a single Court. Taking into consideration of the all the above, having regard to the nature of dispute between the parties, as in both the suits, parties to the proceedings, the issues to be decided are all one and the same and with a view to avoid conflicting of judgment that may be passed, with a view avoid

multiplicity of proceedings, and with a view to save precious time of the Courts as well as the parties, this Court does incline to allow this petition.

In the result, this petition is allowed. The suit in O.S.No.559/2024 which is pending on the file of the Principal District Munsif Court, Coimbatore, is ordered to be withdrawn and transferred to the file of I Additional District Judge, Coimbatore. The transferee Court shall decide whether the suits [O.S.No.559/2024 and O.S.No.1202/2023] are to be tried jointly or simultaneously. No costs.

This order is dictated to steno-typist directly, typed by her in computer, corrected and pronounced by me in open Court, on this the 11th day of March, 2026.

PRINCIPAL DISTRICT JUDGE,
COIMBATORE.

Copy to:-

1. The Principal District Munsif, Coimbatore.
2. The I Additional District Judge, Coimbatore.

//True copy//

Draft Order in
Tr.O.P.No.342/2024
Dated:11-03-2026.