

In the Court of the Principal District Judge, Madurai
Present: Thiru. S. Sivakadatcham, B.Sc., M.L.,
Principal District Judge, Madurai
Thursday, this the 9th day of April, 2026.

Transfer O.P.No.157/2025.
(CNR No.TNMD01-008468-2025)

Alagusundaram

.. Petitioner

Vs.

1. Balasubramaniam
2. Pattu

.. Respondents

This petition coming on 12.03.2026, for final hearing before me in the presence of Thiru.C.M.Arumugam, Advocate for the petitioner and of Thiru.M.Sankar, Advocate for the 1st respondent, R2 called absent and set exparte and upon hearing both sides argument and having stood over for consideration till this day, this court has passed the following:-

ORDER

The petitioner filed the petition under Section 24 r/w 151 of Civil Procedure Code to transfer the suit in O.S.No.118/2023 on the file District Munsif Court, Madurai Taluk to the I Additional Sub Court, Madurai for joint trial along with O.S.No.1120/2023.

2) The averments in brief of the petition is as follows:

The petitioner herein is the defendant in Original Suit No. 118/2023 pending before the District Munsif Court, Madurai Taluk. The respondent in this petition has filed the said suit seeking a declaration that the Will executed by the petitioner's father, Late Shanmugavelu, on 03.06.2016, in respect of a house site measuring 14 cents and 199 square feet, situated in Survey No. 5/24 (Old Survey No. 5/1) at Thirumogur Village, Madurai East Taluk, and registered as Document No. 31/2016–2017 in the office of the Additional Sub-Registrar, Jayanagar,

Bengaluru, is invalid. Further, the respondent has also filed another suit in Original Suit No. 1120/2023 before the I Additional Subordinate Court, Madurai, seeking partition of the above said property. In both the above suits, the petitioner has appeared and filed written statements. In O.S.No.1120/2023 pending before the I Additional Subordinate Court, Madurai, the respondent has filed proof affidavit, and the case is now posted for cross-examination on the side of the petitioner. The property described in Original Suit No. 118/2023 and the property described in Original Suit No. 1120/2023 are one and the same. The parties in both suits are also identical. If a judgment is delivered in only one of the suits, it will directly affect the other suit as well. Therefore, only if both suits are tried together, a fair and proper judgment can be rendered. The petitioner respectfully submits that certified copies of the pleadings in Original Suit No. 118/2023 pending before the Hon'ble Madurai Taluk Court and Original Suit No. 1120/2023 pending before the Hon'ble I Additional Subordinate Court, Madurai, filed by the respondent, are annexed to this petition. Therefore, the petitioner prays to transfer the suit in O.S.No.118/2023 on the file District Munsif Court, Madurai Taluk to the I Additional Sub Court, Madurai for joint trial along with O.S.No.1120/2023 on the file of 1st Additional Sub Court, Madurai.

3. The averments in the counter affidavit filed by the 1st respondent are briefly as follows:

The Transfer O.P. is devoid of merits and is liable to be dismissed in limine. The description of parties, addresses and case number are admitted only for the purpose of identification and record. All other averments contrary thereto are denied. In O.S.No.118/2023 pending on the file of the District Munsif Taluk Court, Madurai seeking a relief of declaration that the alleged Will dated 03.06.2016 as null and void. Whereas O.S.No.1120/2023 pending on the file of

the I Additional Sub Court, Madurai is an independent suit for partition. Both suits are distinct in nature, reliefs claimed, cause of action and stages of trial. The mere fact that the property involved in both suits are the same does not, by itself, warrant transfer of the suit under Section 24 CPC. The petitioner has failed to establish any legal necessity, inconvenience, prejudice or exceptional circumstance for seeking transfer. The allegation of delay in O.S.No.118/2023 is wholly incorrect and misleading. For more than one year after the institution of the suit, no regular Presiding Officer was posted to the District Munsif Taluk Court, Madurai and the suit was being dealt with by an In-charge Court. Subsequently, after the regular Judge was appointed, the suit was posted for framing of issues on five consecutive hearings. At the stage of framing issues, the learned Judge sought clarification regarding prayer 'B' of the plaint, observing that the said prayer partakes the nature of an interim relief and is not maintainable as a main relief in the suit. Pursuant thereto, he was constrained to file an Amendment Petition for rectification of the said prayer, and the same is presently pending for counter by the petitioner. Therefore the progress of the suit has been bona fide and procedural, and the petitioner himself is responsible for the present stage of the proceedings. Hence, the pendency of O.S.No.118/2023 cannot be cited as a ground for transfer. The suit in O.S.No.118/2023 is being properly and lawfully tried by the District Munsif Taluk Court, Madurai, which has complete territorial and pecuniary jurisdiction. There is no procedural irregularity or denial of fair opportunity to the petitioner. In O.S.No.1120/2023, the I Additional Sub Court, Madurai referred the matter to mediation on 16.07.2024. The petitioner herein neither appeared before the Mediation Centre nor participated in any hearing prior to the said mediation. From 16.07.2024 till 04.12.2024, the suit was repeatedly posted for awaiting the mediation report, solely due to the non-

appearance of the petitioner. After framing of issues, when the case was again referred to mediation for amicable settlement on 31.07.2025, the petitioner once again failed to appear before the Mediation Centre. Consequently, the matter was posted for awaiting notice till 21.11.2025. The petitioner's continuous absence clearly demonstrates his lack of bona fide intention to resolve the dispute and his deliberate non-cooperation with the judicial process. After the mediation failed due to the petitioner's default, the suit was posted for trial. The plaintiff completed chief examination; however, the petitioner herein failed to cross-examine the plaintiff despite sufficient opportunity, as a result of which the cross-examination was closed by the court. The suit is now posted for defendant side evidence. At this advanced stage, the petitioner has filed that present Transfer O.P. only with the intention of protracting the proceedings and delaying the disposal of O.S.No.1120/2023. The conduct of the petitioner clearly amounts to abuse of process of court and disentitles him from any discretionary relief from under Section 24 CPC. The contention of the petitioner that a decision in one suit should automatically affect the other suit is misconceived and legally untenable. Each suit has to be decided independently on the basis of its pleadings, evidence and reliefs sought. The Transfer O.P. has been filed only with an ulterior motive to delay the proceedings, cause unnecessary hardship to this respondent and abuse the process of Court. The petitioner has not made out any valid ground under Section 24 or Section 151 of CPC for transfer of the suit. The discretionary power of this court cannot be invoked in the absence of compelling and bona fide reasons. Hence prayed to dismiss the petition.

4. The 2nd respondent called absent and set ex parte. The 1st respondent has also endorsed as 'No objection'.

5. The point for consideration:-

Whether the Transfer Original Petition is allowable?

6. Both side have not adduced either oral evidence or documentary evidence.

7. Point:

The petition filed to transfer the the suit in O.S.No.118/2023 on the file District Munsif Court, Madurai Taluk to the I Additional Sub Court, Madurai for joint trial along with O.S.No.1120/2023.

8. Counter has been filed by the 1st respondent. 1st respondent has also endorsed as 'No objection'. The copy of the plaint in O.S.No.1120/2023 filed as document no.1 and the copy of the plaint in O.S.No.118/2023 filed as document no.2. On perusal of properties, both are one and the same and the parties are also one and the same. 1st respondent herein filed O.S.No.1120/2023 before the I Additional Sub Court, Madurai, against the petitioner and 2nd respondent for the relief of partition of 1/3rd share in the petition mentioned property. Furthermore, he also filed O.S.No.118/2023 before District Munsif Court, Madurai Taluk for declaring the Will dated 03.06.2016, Doc.No. 31/2016 as null and void. On perusal of properties both suits are one and the same.

9. On perusal of copy of plaint in O.S.No.1120/2023, the schedule of property is mentioned as follows:-

Plaint Schedule Property

District	- Madurai
Taluk	- Madurai East
Sub-Registrar Office	- Madurai North Joint I Sub-D
Village	- Thirumohur
Old Survey No.	- 5/1

Resurvey No - 5/24

Purchased Extent - 14 Cents and 199 Sq.feet of Land with Building

Boundaries:-

North : 12 feet Wide East West Road

East : House belongs to Mr. R. Kannan and Mr.R. Nagaraj

South : House belongs to Papammal and Pandiammal

West : House belongs to K.Rathinavathy

Within these above measuring

East West on the North and South Side 95 ½ feet

South North on the East and West Side 66 feet

Totaling 6303 Sq.feet of Land i.e. 14 Cents 199 Sq.feet with R.C.C. Building with all its amenities there on. Presently as per sub-division the above said property is comprised in S.No. 5/24. The above said property is situated within the limits of Thirumohur Village Panchayat.

10. On perusal of copy of plaint in O.S.No.118/2023, the schedule of property is mentioned as follows:-

Plaint Schedule Property

District - Madurai

Taluk - Madurai East

Sub-Registrar Office - Madurai North Joint I Sub-D

Village - Thirumohur

Old Survey No. - 5/1

Resurvey No - 5/24

Purchased Extent - 14 Cents and 199 Sq.feet of Land with Building

Boundaries:-

North : 12 feet Wide East West Road

East : House belongs to Mr. R. Kannan and Mr.R. Nagaraj

South : House belongs to Papammal and Pandiammal

West : House belongs to K.Rathinavathy

Within these above measuring

East West on the North and South Side 95 ½ feet

South North on the East and West Side 66 feet

Totaling 6303 Sq.feet of Land i.e. 14 Cents 199 Sq.feet with R.C.C. Building with all its amenities there on. Presently as per sub-division the above said property is comprised in S.No. 5/24. The above said property is situated within the limits of Thirumohur Village Panchayat.

11. A careful perusal of the material records of the case clearly shows that the suit properties, subject matter and the parties in both the suits are one and the same. Status report from both courts for both cases called for. O.S.No.1120/2023 is in stage of P.W.1 cross and O.S.No.118/2023 is at the stage of framing of issues. In both cases no stay or no directions of Hon'ble High Court. Since the subject matter in both suits are one and the same, in order to avoid conflict of decisions, this Court holds that O.S.No.118/2023 pending before the District Munsif Court, Madurai Taluk is ordered to be transferred to the file of the I Additional Sub Court, Madurai to try along with O.S.No.1120/2023 and the point is answered accordingly.

12. In the result, the petition is allowed. O.S.No.118/2023 pending before the District Munsif Court, Madurai Taluk is ordered to be transferred to the file of the I Additional Sub Court, Madurai to try along with O.S.No.1120/2023. No cost.

Dictated to the stenographer Gr.I, transcribed by her, corrected and pronounced by me in open court this the 9th day of April, 2026.

Principal District Judge
Madurai

List of witnesses and documents on both sides:- Nil

Principal District Judge
Madurai