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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.11.2026

Pronounced on : 18.11.2026

CORAM

THE HON'BLE MR. JUSTICE P.VADAMALAI

TR CMP(MD) No. 508 of 2026

CNR:{HCMD011355422026}

Case QR

AND

CMP(MD) No. 13393 of 2026

1. S.Jegatheesan
   M.L.Theri Road,
   Keeraikaranthattu,
   Tisaiyanvilai,
   Tirunelveli District.

2. J.Renuka
   M.L.Theri Road,
   Keeraikaranthattu,
   Tisaiyanvilai,
   Tirunelveli District.

3. J.Muthurajan
   M.L.Theri Road,
   Keeraikaranthattu,
   Tisaiyanvilai,
   Tirunelveli District.

4. J.Chenthilrajan,
   M.L.Theri Road,
   Keeraikaranthattu,
   Tisaiyanvilai,
   Tirunelveli District.

5. J.Subburajan
   M.L.Theri Road,
   Keeraikaranthattu,
   Tisaiyanvilai,
   Tirunelveli District.

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6. M.Madhana
M.L.Theri Road,
Keeraikaranthattu,
Tisaiyanvilai,
Tirunelveli District. ...Petitioners

Vs.

1. S.Vaikundarajan
M.L.Theri Road,
Keeraikaranthattu,
Tisaiyanvilai,
Tirunelveli District.

2. V.Chandra Boopathy
M.L.Theri Road,
Keeraikaranthattu,
Tisaiyanvilai,
Tirunelveli District.

3. V.Subramanian
M.L.Theri Road,
Keeraikaranthattu,
Tisaiyanvilai,
Tirunelveli District.

4. V.Velmurugan
M.L.Theri Road,
Keeraikaranthattu,
Tisaiyanvilai,
Tirunelveli District.

5. Karthiyayini
M.L.Theri Road,
Keeraikaranthattu,
Tisaiyanvilai,
Tirunelveli District.

6. V.Subasaranya
M.L.Theri Road,
Keeraikaranthattu,
Tisaiyanvilai,
Tirunelveli District.

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7. S.Ganesan
M.L.Theri Road,
Keeraikaranthattu,
Tisaiyanvilai,
Tirunelveli District. ...Respondents

PRAYER: This Transfer Civil Miscellaneous Petition is filed under Section 24 of the Civil Procedure Code, to withdraw and transfer O.S.No.72 of 2022 and E.A.No.2 of 2021 in E.P.No.61 of 2019, EA.No.2 of 2021 in E.P.No.62 of 2019 and E.A.No.2 of 2021 in E.P.No.63 of 2019 in ACP.No.1 of 2019 on the file of the V Additional District Judge, Valliyoor, to any other competent Court of equal jurisdiction in Tamil Nadu.

For Petitioners :Mr.V.Prakash, Senior Counsel
for Mr.N.V.Prakash
For R1 :Mr.V.Raghavachari, Senior Counsel
for M/s.Corner Stone Associates
For R2 :Mr.VR.Shanmuganathan
For R3 to R5 :Mr.Sricharan Rengarajan, Senior Counsel
for Mr.K.Rajeshwaran
For R6 :Mr.Meenakshi Sundaram, Senior Counsel
for Mr.K.Rajeshwaran
For R7 :No Appearance

ORDER

This petition is filed by the petitioners U/s. 24 of CPC seeking for an order to withdraw the case in O.S.No.72 of 2022 and E.A.No.2 of 2021 in E.P.No.61 of 2019, E.A.No.2 of 2021 in E.P.No.62 of 2019 and E.A.No.2 of 2021 in E.P.No.63 of 2019 in A.C.P.No.1 of 2019 on the file of the learned V Additional District Judge, Valliyoor, to any other competent Court of equal jurisdiction in Tamil Nadu.

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2. The learned counsel for the petitioners has submitted that the 1st petitioner and the 1st respondent are brothers. They have two more brothers, namely Chandresan and Sukumar. The family has a number of movable & immovable properties and companies. When issues were raised, one of the brothers, namely Sukumar, left the business after receiving his share. Then, another brother, Chandresan, sought a division of the properties and business. Through the appointment of the Hon'ble Retired Justice Shivraj Patel of the Hon'ble Supreme Court as Arbitrator, the said Chandresan took his share by way of a consent award. Thereafter, the 1st petitioner and the 1st respondent jointly carried on business in their companies. The 1st respondent coercively prepared a document named 'Kaithadi Partition Deed' dated 31.12.2018 in their hometown and said to have obtained the signature of the petitioners in the presence of the alleged conciliator/7th respondent by stating it was only a draft. On 31.12.2018, the respondents 3 and 5 were in abroad and the 6th respondent was in Chennai, so executing the said deed was not physically possible.

2.1 The 1st petitioner sent a legal notice dated 28.03.2019 to the 1st respondent for equal partition of properties and business through reference to arbitration. The 1st respondent sent a reply notice dated

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22.04.2019 stating that the 7th respondent conciliated between the parties and enclosed a copy of conciliation award dated 02.01.2019 based on the alleged Kaithadi Partition Deed. In the said minutes, except 7th respondent none of the parties signed and so, the said Kaithadi Partition Deed and the minutes were fabricated by the 1st respondent. Then, the petitioners and the respondents have filed their respective Original Petitions in O.P.Nos.372 to 374, 380 to 382 and 384 of 2019 and O.A.No.543 of 2019 under Section 11 and 9 of the Arbitration and Conciliation Act before this Court for appointment of an Arbitrator and interim reliefs. The said petitions were dismissed by this Court on 06.09.2019. The SLP(C) Nos.25250 to 25256 of 2019 preferred by the 1st petitioner before the Hon'ble Supreme Court was dismissed on 21.10.2019; however, the Hon'ble Supreme Court ordered that the petitioner was at liberty to work out his remedies according to law. Then, the petitioners have filed Review Petitions(Civil)Nos.1275 to 1281 of 2020 before the Hon'ble Supreme Court, and the same were also dismissed on 09.06.2020.

2.2 During pendency of the above proceedings, the respondents have filed E.P.Nos.61, 62 and 63 of 2019 in ACP No.1 of 2019 before the Principal District Court, Tirunelveli, for execution of the alleged

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conciliation award dated 02.01.2019. The petitioners have filed CRP(MD)Nos.1797 to 1799 of 2019 before this Court to strike off the said execution petitions. But the same were dismissed by this Court on 08.04.2021 with liberty to raise the issues before the Executing Court. The SLP(C)No.10412 of 2021 preferred against the said dismissal order before the Hon'ble Supreme Court were also dismissed on 04.05.2021. So, the petitioners have filed Execution Application Nos.2, 2 & 2 of 2021 U/s.47 of CPC in the said E.P.Nos.61 to 63 of 2019 in ACP.No.1 of 2019. They also filed a suit in O.S.No.72 of 2022 before the III Additional District Court, Tirunelveli, to declare that the said Kaithadi Partition Deed, dated 31.12.2018, is not binding on the petitioners.

2.3 In the meantime, some lorries relating to their business were seized by the police. At the behest of the 1st respondent, one Sakthi Ganapathy, Manager of Vetrivel Minerals, filed Crl.M.P.Nos.12959 to 12961 of 2022 before the Principal Sessions Court, Tirunelveli U/s.457 and 451 of Cr.P.C., for release of the seized lorries and the said petitions were dismissed as the RC books were in the names of the petitioners. The petitioners have filed Tr.O.P.No.122 of 2023 before the Principal District Court, Tirunelveli, for transfer of EAs in EPs to the III Additional District Court, Tirunelveli, to be tried along with O.S.No.72 of 2022. The

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1st respondent has filed Tr.C.M.P(MD)Nos.301 to 303 of 2023 before this Court to transfer the E.P.Nos.61 to 63 of 2019 in ACP.No.1 of 2019 from the file of the Principal District Court, Tirunelveli, to the Principal District Court, Madurai. This Court passed an order dated 30.06.2023 in Tr.CMP(MD)Nos.301 to 303 of 2023 declining to transfer the cases to the Principal District Court, Madurai; however, it transferred O.S.No.72 of 2022 on the file of the III Additional District Court, Tirunelveli to the Principal District Court, Tirunelveli to be tried along with E.P.Nos.61 to 63 of 2019 in ACP.No.1 of 2019.

2.4 Thereafter, the 1st respondent filed a petition in I.A.No.5 of 2023 in O.S.No.72 of 2022 before the Principal District Court, Tirunelveli, to reject the plaint in O.S.No.72 of 2022. The Principal District Court, Tirunelveli allowed that petition and rejected the plaint by order dated 29.08.2024. Aggrieved by the same, the petitioners preferred A.S.Nos.252 and 253 of 2024 before this Court and the same were dismissed on 31.01.2025, confirming the trial Court's rejection order. The petitioners have preferred SLP (C) Nos.16254 and 16880 of 2025 before the Hon’ble Supreme Court. The SLPs were allowed on 10.02.2026 setting aside the orders of this Court and trial Court and directed to restore the suit in O.S.No.72 of 2022 to be tried along with

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E.A.Nos.2, 2 & 2 of 2021 in E.P.Nos.61 to 63 of 2019 in ACP.No.1 of 2019 by the Principal District Court, Tirunelveli and accordingly, the suit was restored.

2.5 Thereafter, on account of territorial segregation, the suit in O.S.No.72 of 2022 and E.P.Nos.61 to 63 of 2019 with connected interlocutory applications were transferred to the V Additional District Court, Valliyoor. The petitioners have filed I.A.No.11 of 2026 in O.S.No.72 of 2022 for recasting issues and filed I.A.No.9 of 2026 in O.S.No.72 of 2022 for amendment of the plaint. The I.A.No.9 of 2026 in O.S.No.72 of 2922 for amending the plaint was allowed on 18.08.2026. The petition in I.A.No.11 of 2026 for recasting of issues was partly allowed on 09.09.2026. The 1st respondent filed CRP(MD)No.2639 of 2026 before this Court challenging the order in I.A.No.9 of 2026 and the same is pending. The 1st respondent has also filed CRP(MD)Nos.2188 to 2190 of 2026 before this Court to dispose of the E.P.Nos.61 to 63 of 2019 within a time frame, and the same is pending. The trial Court passed an order on 09.09.2026 in I.A.No.11 of 2026 in O.S.No.72 of 2022 regarding the recasting of issues. Challenging the same, the petitioners have filed C.R.P(MD)No.2748 of 2026 before this Court and the same is pending.

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2.6 Thereafter, on advice of senior counsel, the petitioners have filed 2nd amendment petition under Order 6 Rule 17 of CPC on 18.09.2026 and the same was returned by the trial Court with endorsement ‘how the 2nd amendment petition is entertainable’ and passed a docket order dated 18.09.2026, observing that the execution petitions are pending for more than five years and the petitioners are delaying the proceeding by not commencing the trial, which makes clear the plaintiffs’ intention of not allowing the execution petitions to be completed and that in the interest of justice, one more opportunity is given to commence the trial and posted the suit & EPs to 21.09.2026 for trial and further stated that if the petitioners failed to commence the trial, a suitable order would be passed for the disposal of suit. The petitioners are entitled to file an amendment petition under Order 6 Rule 17 of CPC, if they deem it necessary for amendment of the plaint, even though they had already filed such a petition. But the trial Court has returned the same and passed adjudication on 18.09.2026, directing the petitioners to commence the trial on the next hearing; otherwise, a suitable order will be passed. Hence, the petitioners apprehend that the Presiding Officer of the Trial Court is biased and has acted against the petitioners and therefore, have filed this present transfer petition.

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3. The learned counsel for the petitioners mainly argued that there is a specific order passed by the Hon'ble Supreme Court in SLP (C) No.16254 of 2025 that *"the Original Suit shall be tried along with the objections raised under section 47 of the CPC"*. Meaning that the suit has to be tried along with petitions U/s.47 of the CPC by clubbing both the suit and petitions together. But, the trial Court misunderstood this, holding that the Hon'ble Supreme Court had not directed to club the suit and execution proceedings and accordingly observed in its order passed in I.A.No.11 of 2026 in O.S.No.72 of 2022 in paragraph No.9 that *"The Hon'ble Supreme Court of India in its verdict gave a direction that the suit and the section 47 CPC application should be tried together and there is no direction to club both the suit and application pending under section 47 CPC, and therefore there is no need to frame issues with regard to section 47 CPC application or….."* and it is against the order of the Hon'ble Supreme Court particularly mentioned in paragraph No.32 of its order dated 10.02.2026. Therefore, the petitioners have an apprehension that they would not get a fair adjudication in O.S.No.72 of 2022 and the petitions filed under Section 47 of the CPC at the hands of the Presiding Officer of the trial Court. The trial Court passed a daily order on 15.07.2026 directing the petitioners to file a counter in E.P.Nos.61 to 63 of 2019 on or before 31.07.2026, stating that if they fail

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to file counter, the opportunity of petitioners for filing a counter would be forfeited. So, the petitioners feel that the learned trial Judge is biased against them. This Court has called for a report from the Presiding Officer of the trial Court in respect of this petition. The Presiding Officer has submitted a report regarding the averments in this petition, a perusal of the same would show that the Presiding Officer has a predisposed mind towards the execution proceedings, which is in favour of the respondents and this confirms the apprehension of the petitioners.

3.1 The learned trial Judge has referred to the general direction of the Hon'ble Supreme Court. The petitioners have mentioned about the docket order of the trial Court and also the e-court diary for the hearing dated 18.09.2026. The trial Court misread the order of the Hon'ble Supreme Court and attempted to dispose of the execution proceedings by stating that the Hon'ble High Court directed to dispose of the EPs pending for more than five years. The trial Court's observation that the petitioners caused delay in the proceedings is not correct. The respondents filed transfer petitions and also filed the petition in I.A.No.5 of 2019 to reject the plaint. That petition was allowed on 29.08.2024, and later, after approaching the Supreme Court, the suit was restored on 10.02.2026. So, there is no delay on the part of the

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petitioners. The adjudication docket order dated 18.09.2026 and the report of the trial Judge would amount to bias against the petitioners.

3.2 The learned counsel further submitted that the present Presiding Officer of the trial Court was promoted to the cadre of District Judge (Entry Level), subject to the result of vigilance enquiry, pending against him. So, the petitioners have lost confidence upon the Presiding Officer and have a lurking suspicion in their minds that the Presiding Officer has a preconceived notion about the case and hence, the petitioners will not get justice from the trial Court and therefore seek the transfer of the case so that fair justice may be done. In support of his arguments, the learned counsel for the petitioners has relied on the following rulings:

(1) (2015) 6 Supreme Court Cases 617 in the case of Kanaklata /v/ State (NCT of Delhi) and Others.

(2) Order of the Hon'ble High Court of Tripura in Tr.P.(Crl.) No.1 of 2022 dated 15.02.2022

(3) 2012 (2) MWN (Civil) 162 in the case of M.Senthilkumar /v/ Kalaimani.

4. Per contra, the learned counsel for the 1st respondent has filed a counter, objecting to this petition. The learned counsel vehemently

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contended that since the petitioners have filed the civil suit, they should be ready to commence the trial, but they filed interlocutory applications as per their whims; the petitioners wanted to recast the issues and wanted to frame 14 issues regarding Section 47 of CPC, which is available on page 65 to 67 of the additional typed set of papers filed by the petitioners. The petitioners have also filed another petition under Order 8 Rule 9 of CPC, and the same was returned by the trial Court. The petitioners have not stated before the Hon'ble Supreme Court that they were going to file additional pleadings after the filing of written statement by the defendants. The petitioners have filed another petition under Order 6 Rule 17 of CPC to amend the plaint regarding the handwriting expert's opinion on the conciliation report containing 600 pages. This petition was filed only to harass the respondents. Because the petitioners had signed all 600 pages and all the materials were already available with them, there is no necessity to file a petition under Order 6 Rule 17 of the CPC. The respondents have filed execution petitions in 2019 and after a lapse of 7 to 8 years delay the petitioners are still not ready to commence the enquiry or commence the trial in their suit in O.S.No.72 of 2022, and instead they filed an adjournment petition as seen on page 118 of the additional typed set of the petitioners. The petitioners have kept all the electronic records connected to the case, but they have filed the petition

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in 2026, four years after filing the suit in 2022. So, the petitioners have deliberately delayed in pursuing the matter.

4.1 In fact, the 1st respondent filed Crl.M.P.Nos.2873 to 2875 of 2023 before the Principal Sessions Court, Tirunelveli, for return of the lorries seized in a criminal case. The Principal Sessions Court, Tirunelveli, observed in its order dated 03.06.2023, passed in those Crl.MPs that the said Kaithadi Partition deed was not valid for the return of the lorries. So, the 1st respondent filed Tr.CMP(MD)Nos.301 to 303 of 2023 for transfer of EP.Nos.61 to 63 of 2019 before this Court and argued that the Principal Sessions Judge, Tirunelveli had formed a biased opinion contrary to the decision of the Principal Seat of this Court in its orders in O.P.Nos.372 to 374, 380 to 382 and 384 of 2019 and O.A.No.543 of 2019 and C.R.P(MD)Nos.1797 to 1799 of 2019 in respect of the said Kaithadi Partition deed. This Court did not considered the said order passed in the criminal case as a biased one and dismissed the transfer petition filed by the 1st respondent on 30.06.2023 and directed the trial Court to dispose of the matters within a period of 12 months. So, the 1st respondent is the sole sufferer of the orders passed by the trial Court. But, the 1st respondent is conducting the case before the same trial Court. The Hon'ble Supreme Court in SLP (C) No.16254 of 2025

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ordered that the original suit should be taken up along with EPs. Thereafter, the petitioners filed an amendment petition and the same was allowed. Again, the petitioners filed one amendment petition after another, so the trial Court returned the same and directed the petitioners to commence the trial. Hence, the direction of the trial Court cannot be termed as a ground for apprehension. The said apprehension is a motivated act of the petitioners. Therefore, the petition may be dismissed.

4.2 In support of his arguments, the learned counsel for the 1st respondent has relied on the following citations:

(1) (2016) 3 SCC 370 (Usmangani Adambhai Vahora vs State of Gujarat & Anr.) Crl.O.P.No.17181 of 2025 (Dr.Ranganathan vs. Dr.Lakshmanan).

(2) 2025 INSC 989 in the case of N.Peddi Raju & Others.

(3) 2024 DHC 3772 in the case of Sanjay goel vs. Majestic Buildion Pvt. Ltd.

(4) Delhi High Court Order in Tr.CMP.No.180 of 2025 dated 25.09.2025 in the case of Neeti Sharma & Anr. vs Kailash Chand Gupta & Ors.

(5) Order of this Court passed in Tr.CMP(MD) Nos.301 to 303 of 2023 in the case of

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5. The learned counsel for the 2nd respondent has submitted that the 1st petitioner, in his affidavit filed in this petition, has stated in paragraph Nos.17 and 18 that he has filed three petitions: one for recasting issues, which was partly allowed and another one for amendment which was allowed on 18.08.2026 and that again on 18.09.2026 the 1st petitioner has filed another petition for amendment which was returned by the trial Court. After restoration of the suit, the 1st petitioner has been filing petitions repeatedly at every hearing of the suit, which shows that the 1st petitioner is not ready to conduct the case. Hence, the 2nd petition for amendment was returned by the trial Court, and the 1st petitioner was directed to commence trial. This is only a solitary observation, which is not a ground for seeking the transfer of the case. This Court has already held discussions in respect of the case in Tr.CMP(MD)Nos.301 to 303 of 2023 and directed the disposal of the cases within 12 months. Accordingly, the trial Court has expressed its view by directing the parties to commence the trial. But, the petitioners are not ready for disposal of the cases in spite of the specific direction of this Court. The observation of the trial Court does not give rise to a reasonable apprehension for seeking a transfer. Hence, this petition may

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be dismissed. In support of his arguments, the learned counsel has relied on the Order of the Hon'ble Allahabad High Court reported in **2025 AHC LKO 72431** in the case of **Khusbhu Singh /v/ Akhilesh Singh.**

6. The learned counsel for the respondents 3 to 5 has put forth arguments that the petitioners have sought transfer of O.S.No.72 of 2022 and E.A.Nos.2, 2 & 2 of 2021 in E.P.Nos.61 to 63 of 2019. They have not sought the transfer of E.Ps. So, there is a fundamental flaw in this petition. The petitioners have mainly sought the transfer of cases on the grounds of (i) the return of the 2nd amendment petition, (ii) docket order dated 18.09.2026, and (iii) E.Ps were listed immediately. These are not valid grounds for transfer of cases. The original suit and E.Ps were listed on the same hearings, and there is no separate date of hearing for both cases. Therefore, the trial Court has rightly taken up the cases simultaneously as directed by the Hon'ble Supreme Court in its order in SLP (C) No.16254 of 2025 in paragraph No. 32, which is shown on page No.296 of the typed set of papers, that the suit shall be tried along with the objection raised under Section 47 of the CPC. So, both cases have to be taken up for simultaneous trial. Hence, the trial Court has rightly observed that there is no direction for clubbing and rightly taken up the cases together on the same hearing dates. This is not a ground for

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transfer.

6.1 The challenge to the ground for return of the petition is also not a correct one. The 'B' Diary of the trial Court for hearing on 09.09.2026 in O.S.No.72 of 2022 shows that the rejoinder filed by the 1st defendant was returned and the suit was adjourned to 11.09.2026 for trial. The 1st defendant has not been prejudiced. The 'B' Diary dated 19.08.2026 in O.S.No.72 of 2022, the trial Court observed that there is a connected E.P relating to the subject matter of suit which is pending for more than 5 years. The Hon'ble Supreme Court, in its order in SLP (C) Nos.8490 - 8492 of 2020 dated 06.03.2025, directed all the High Courts to issue an administrative order to ensure that the execution petitions pending in various courts shall be decided and disposed of within a period of six months without fail otherwise, the Presiding Officer would be answerable to the High Court on its administrative side. Hence, the observation made by the Presiding Officer in the EPs will not form a ground for transfer of cases, as sought by the petitioners. Moreover, the petitioners filed three petitions in I.A.No.9 of 2026 for amendment, I.A.No.10 of 2026 for leave of the Court and I.A.No.11 of 2026 for recasting of issues. The I.A.Nos.9 of 2026 and 10 of 2026 were allowed, and I.A.No.11 of 2026 was partly allowed. These respondents have preferred CRPs challenging the orders and they have not filed any

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transfer petitions alleging a biased order. While the CRPs are pending, the petitioners have filed this transfer petition, which is liable to be dismissed. Therefore, the reasons stated by the petitioners for transfer are neither tenable nor relevant.

6.2 Moreover, the petitioners have filed rejoinder affidavit in which they attacked the judicial administration alleging that the Presiding Officer is facing vigilance enquiry. This argument is not relevant, and it is a clear attempt to attack the judiciary. The Presiding Officer was allowed to continue in his position by the Hon'ble High Court and so this kind of argument in rejoinder is not entertainable for transfer of the case. These respondents and the petitioners have filed CRPs, and they have not filed any CMPs for stay of proceedings. The petitioners have sought for framing of 14 issues in the petition filed under Section 47 of the CPC. There is no rule for framing issues in the petitions U/s.47 of CPC, that too 14 issues. The act of filing a petition for framing issues by the petitioners is not acceptable one. Mere return of the petition filed by the petitioners is not a ground for seeking transfer, and this Court has already held the same in various decisions. A general direction of the Presiding Officer for early disposal of the case is not a ground for transfer, and the duty of expeditious disposal of the case is not a bias. Moreover, in this petition

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the petitioners have suppressed the direction of this Court for disposal of cases within the stipulated time, which shows the misrepresentation on the part of the petitioners. On this ground also, this petition is liable to be dismissed.

6.3 The learned counsel has relied on the following citations:

(1) Order of the Hon'ble Supreme Court in SLP(C) Nos.8490 -8492 of 2020 dated 06.03.2023 in the case Periyammal (Dead Thr.LRs.) & Ors. /v/ V.Rajamani and Anr.

(2) (2016) 3 SCC 370 in the case of Usmangani Adambhai Vahora /v/ State of Gujarat and Anr.

(3) (2012) 1 SCC 680 in the case of Ashish Chanda /v/ Asha Kumari and Anr.

(4) Order of the Hon'ble Supreme Court in Transfer Petition (C) Nos.2331 - 2334 of 2021 in the case of Anupam Ghosh and Anr. /v/ Faiz Mohammed and Ors.

(5) Order of this Court in Tr.CMP(MD)No.117 of 2025 dated 29.04.2025 in the case of D.Socratees /v/ Gomathi and Anr.

(6) Order of this Court in Tr.CMP(MD)No.307 of 2021 dated 23.08.2021 in the case of The Tamil Evangelical Lutheran Church (TELC) and Ors. /v/ Rt.Rev.D.Daniel Jayaraj and Ors.

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(7) Order of this Court in Tr.CMP(MD)No.332 of 2026 dated 07.08.2026 in the case of Sagayam /v/ P.B.Suresh Palraj and Ors.

(8) Order of this Court passed in Tr.CMP(MD) Nos.301 to 303 of 2023 S.Vaikundarajan vs V.Chandra Boopathy dated 30.06.2023.

7. The learned counsel for the 6th respondent has argued mainly along the same lines as that of respondents 1 to 5. The learned counsel further argued that the 1st petitioner has stated averments in his affidavit based on his own interpretation of the order of the Hon'ble Supreme Court and of this Court. This Court in Tr.CMP(MD)Nos.301 to 303 of 2023 has directed for disposal of the suit and EPs within 12 months as per its order dated 30.06.2023. The 12 months ended on 30.06.2024. But, upon the order of the Hon'ble Supreme Court dated 10.02.2026, the suit in O.S.No.72 of 2022 was restored on 19.06.2026 and adjourned to 01.07.2026 for filing written statements by the defendants, then adjourned to 06.07.2026 and to 13.07.2026. All the defendants filed their written statements on 13.07.2026. Within 24 days after restoration, the defendants filed their written statement. Thereafter, the suit was adjourned to 15.07.2026 for framing issues. The defendants filed draft issues on 15.07.2026. Thereafter, the petitioners filed the petition

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I.A.No.9 of 2026 under Order 6 Rule 17 of CPC for amendment. These respondents have filed CRP(MD)No.2188 of 2026 for speedy disposal of the suit and EPs. The trial Court has rightly understood that the outcome of the suit will have bearing on the EPs. The suit was filed in 2022 and after four years the petitioners filed a petition for amendment in I.A.No.9 of 2026 and the same was allowed on 18.08.2026 by the trial Court. The 1st respondent filed CRP(MD)No.2639 of 2026 before this Court. The execution petitions are pending for more than five years. The defendants requested the trial Court to defer suit proceeding and wanted to proceed with the EP, but the trial Court rejected that request. So, the trial Court has rightly taken up the suit as well as EPs simultaneously.

7.1 Thereafter, the respondents filed a memo along with a copy of the judgment of the Hon'ble Supreme Court and ROC of the Hon'ble Madras High Court regarding the stipulation of time for disposal of Execution Petitions. This was recorded by the trial Court in its docket order dated 31.08.2026. The petitioners filed I.A.No.10 of 2026 for leave to file a reply statement, and the same was allowed with costs on 31.08.2026. The petitioners filed the reply statement along with 30 documents on 07.09.2026. The defendants filed a rejoinder on

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09.09.2026 and it was returned by the trial Court and issues were also framed on 09.09.2026 and the suit was posted for trial on 11.09.2026. The petitioners filed a petition under Order 8 Rule 9 of CPC after framing of issues and it was returned. The petitioners have also filed I.A.No.11 of 2026 for recasting of issues and it was partly allowed, against which the petitioners preferred CRP(MD)No.2748 of 2026. At the instance of the petitioners, 14 issues were proposed in the petition filed under Section 47 of CPC. Non-framing of all issues is not a ground for transfer.

7.2 Again, on 18.09.2026, the petitioners have filed a petition under Order 6 Rule 17 of CPC, and it was returned by the trial Court by giving a final chance to commence the trial. Thereafter, the petitioners have moved this petition before this Court seeking for transfer of the suit and EAs. The petitioners intend only to drag the proceedings without commencing the trial, which shows their *mala fide* intention not to proceed with the EP. There is no bias on the part of the trial Court, which insisted the parties to dispose of cases as directed by this Court. Therefore, this petition may be dismissed.

8. The learned counsel for the petitioners replied that this Court passed an order on 30.06.2023 for disposal of suits and EPs within 12

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months. But the defendants filed a petition under Order 7 Rule 11 of CPC, and it was allowed on 29.08.2024, and the appeal was dismissed by this Court. After the filing of SLP, the Hon'ble Supreme Court passed an order for restoration of the suit by its order dated 10.02.2026 and the suit was restored on 19.06.2026. There is no delay on the part of the petitioners. The learned counsel for the petitioner further submitted that they already submitted a memo stating that there is no time limit fixed nor any time bound direction was given by the Hon'ble Supreme Court for completion of joint trial and hence this petition may be allowed.

9. I have carefully considered the lengthy arguments of both sides and the respective citations relied upon by them, along with material records of the case. From consideration of the arguments and perusal of the records, it is clear that the 1st petitioner and 1st respondent are brothers, they also have two more brothers namely Sukumar and Chandresan. Their family owned numerous movable and immovable properties and a number of partnership firms, which are worth crores of rupees. The other two brothers, Sukumar and Chandresan, left the family business after getting certain shares. The rest of the properties and companies were in the joint possession and administration of the 1st petitioner and 1st respondent. After exchange of legal notices by the

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1st petitioner on 28.03.2019 and the 1st respondent on 22.04.2019, the 1st respondent stated that there was a Kaithadi Partition Deed dated 31.12.2018 signed by both parties and that it was converted into a conciliation award dated 02.01.2019 in the presence of their paternal uncle Ganesan, the 7th respondent herein. The said Kaithadi Partition Deed dated 31.12.2018 was strongly objected to by the petitioners on the ground that it was a fabricated one.

10. Thereafter, the petitioners filed Original Petitions in O.P.Nos.372 to 374, 380 to 382 and 384 of 2019 and O.A.No.543 of 2019 before this Court for appointment of an arbitrator and certain reliefs under Section 11 and 9 of the Arbitration and Conciliation Act. Upon disposal of those petitions, the 1st respondent has filed E.P.Nos. 61 to 63 of 2019 in ACP.No.1 of 2019 before the Principal District Court, Tirunelveli. The petitioners have filed CRP(MD)Nos.1797 to 1799 of 2019 for striking off those EPs and this Court passed a common order dated 08.04.2021 dismissing all the revision petitions. Challenging the order, the petitioners preferred SLP (Civil)No.10412 of 2021 before the Hon'ble Supreme Court and the same was dismissed and the Executing Court was directed to decide the matter on merits. So, the petitioners have filed E.A.Nos.2, 2 & 2 of 2021 in each E.P.Nos.61 to 63 of 2019 and also

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filed an original suit in O.S.No.72 of 2022.

11. Thereafter, the 1st respondent filed Tr.CMP(MD)Nos.301 to 303 of 2023 for transfer of E.P.Nos.61 to 63 of 2019 from the file of the Principal District Court, Tirunelveli to the Principal District Court, Madurai on the ground that the Principal Sessions Court/Principal District Court, Tirunelveli has passed an order regarding the Kaithadai Partiton Deed in Crl.M.P.Nos.12959 to 12961 of 2022 and Crl.M.P.Nos.2873 to 2875 of 2023 which were filed in respect of seized lorries belonging to their firm and that it was biased against the 1st respondent. This Court passed an order on 30.06.2023 declining to grant transfer as sought by the 1st respondent; however, it transferred O.S.No.72 of 2022 from the file of the III Additional District Court, Tirunelveli, to the Principal District Court, Tirunelveli, for disposal of all the matters within 12 months.

12. Thereafter, the defendants filed a petition in I.A.No.5 of 2023 in O.S.No.72 of 2022 for rejection of the plaint in O.S.No.72 of 2022 and the same was allowed by the Principal District Court, Tirunelveli on 29.08.2024. The petitioners have preferred A.S(MD)Nos.252 and 253 of 2024 before this Court and the said appeals were dismissed on 31.01.2025. Challenging the order of this Court passed in A.S.(MD)No.252 and 253 of 2024, the petitioners have preferred

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SLP (C)No.16254 of 2025 before the Hon'ble Supreme Court. The Hon'ble Supreme Court passed an order on 10.02.2026 allowing the SLP and directed to restore the suit in O.S.No.72 of 2022 to be tried along with petitions U/s.47 of CPC filed by the petitioners. The suit was restored on 19.06.2026. Then, upon the segregation of territorial jurisdiction, the suit in O.S.No.72 of 2022 and E.P.Nos.61 to 63 of 2019 were transferred to the V Additional District Court, Valliyoor.

13. From perusal of the records and arguments of both, it is clear that both parties have made rival claims and raised disputes in various kinds of petitions, CRPs, Appeal Suits and SLPs before the Principal Seat of this Court and before this Court and also before the Hon'ble Supreme Court. The parties mainly focused on the alleged Kaithadi Partition Deed and its subsequent conciliation award passed by the 7th respondent. Lengthy arguments were already made by both parties and elaborately discussed by this Court and the Hon'ble Supreme Court. So, regarding the above aspects, the arguments of the petitioners and the respondents need not be discussed again in this petition.

14. The petitioners have mainly sought transfer of the suit and EAs on the allegation that the Presiding Officer has been biased against

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the petitioners. The petitioners have stated that they have already filed an amendment petition in I.A.No.9 of 2026 in O.S.No.72 of 2022 before the trial court and the same was allowed on 18.08.2026; the petitioners have also filed a petition in I.A.No.11 of 2026 for recasting the issues and the same was partly allowed, as the trial Court was not inclined to accept all the issues to be recasted as sought by the petitioners; that thereafter, on 18.09.2026 the petitioners have filed another petition for amendment and that the said petition was returned by the trial Court and passed a docket order as follows:

> *"An application for execution filed by the defendants pending more than 5 years. Seeing the plaintiff delaying the suit by not commencing trial, becomes clear that the plaintiffs intention of not letting to complete the execution petition and it should be delayed. Therefore, this court cannot allow such kind of action of plaintiff and decided that one more opportunity may be given to the plaintiff for commencing trial in the interest of justice. Trial by 21.09.2026. If the plaintiffs fails to use this opportunity to commence trial, suitable order will be made for disposal of this suit'.*

Quoting the above docket order, the petitioners alleged that the Presiding Officer had acted in a biased manner against them.

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15. The petitioners further alleged that the Hon'ble Supreme Court has ordered to club the suit and E.A. filed under Section 47 of CPC in EP for disposal, but the Presiding Officer intended to dispose of the execution petition first and left the original suit without trial. At this juncture, the learned counsel for the respondents has submitted that the Hon'ble Supreme Court has directed for disposal of execution petitions within six months and relied on the judgment of the Hon'ble Supreme Court passed in Special Leave to Appeal(C)Nos.8490-8492 of 2020, in which it is held in paragraph No.75 as follows:

> *"75. We direct all the High Courts across the country to call for the necessary information from their respective district judiciary as regards pendency of the execution petitions. Once the data is collected by each of the High Courts, the High Courts shall thereafter proceed to issue an administrative order or circular directing their respective district judiciary to ensure that the execution petitions pending in various courts shall be decided and disposed of within a period of six months without fail otherwise the concerned presiding officer would be answerable to the High Court on its administrative side…."*.

Thus, from the above specific order of the Hon'ble Supreme Court, the docket order passed by the Presiding Officer is not an erroneous one.

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Moreover, a perusal of the e-Court diaries produced by both sides shows that the suit in O.S.No.72 of 2022 and E.P.Nos.61 to 63 of 2019 are being posted on the same hearing dates as rightly argued by the respondents' side.

16. Upon the allegations levelled in this petition against the Presiding Officer of the V Additional District Court, Valliyoor, a report has been called for from the officer, and the same has been received by this Court on 05.10.2026. A perusal of the report, shows that the Presiding Officer has mentioned about the various kinds of cases filed by both parties, and further stated that the Hon’ble Supreme Court has only directed the trial Court to try the pending suit and EA simultaneously, without ordering them to be clubbed for a joint trial, and this position was duly explained to the petitioners when they sought clubbing under misconception. The officer has further stated that he has not passed any biased order against any party to the proceedings and that the petitioners intended to stall the execution proceeding to prevent its disposal by delaying to commence trial in O.S.No.72 of 2022 by filing one petition after another and preventing the trial Court from disposing the case within stipulated time as ordered by this Court in Tr.CMP(MD)Nos.301 to 303 of 2023 on 30.06.2023.

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17. The learned counsel for the petitioners submitted that the petitioners have lost confidence in the Presiding Officer and hence, transfer may be ordered and relied on the following citations. **(1) (2015) 6 Supreme Court Cases 617 in the case Kanaklata /v/ State (NCT of Delhi) and Others. (2) Order of the Hon'ble High Court of Tripura in Tr.P.(Crl.) No.1 of 2022 dated 15.02.2022 and (3) 2012 (2) MWN (Civil) 162 in the case of M.Senthilkumar and Anr. /v/ Kalaimani and Anr. In Kanaklata case,** the Hon'ble Supreme Court passed an order of transfer in a case involving multiple accused wherein one Senior Justice declined for transfer. In another case of Sumit Banik, the Single Judge of the Hon'ble Tripura High Court passed an order of transfer in a criminal case. So, the first two citations are not applicable to the facts of this case. As for the third one, in the **Senthilkumar case decided by this Court** reported in **2012 (2) MWN (Civil) 162**, the Presiding Officer, who was conducting two cases, passed a judgment in one case and was trying the other case, so the petitioner therein sought transfer of the case. The very same **Senthilkumar case reported in 2012 (2) MWN (Civil) 162** was relied on by the 1st respondent in his Tr.C.M.P.(MD)Nos.301 to 303 of 2023 and sought transfer of E.P.Nos.61 to 63 of 2019 as the Presiding Officer has passed an order against the 1st respondent in

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Crl.M.P.Nos.12959 to 12961 of 2022 in respect of seized lorries belonging to their business. But this Court has held that the order passed in Crl.M.P.No.12959 to 12961 of 2022 before the trial Court was for the release of container lorries seized under a criminal case and that the observation made therein was only a *prima facie* view, which cannot be construed as the ultimate view of the Presiding Officer warranting transfer. So, the citation reported in **2012 (2) MWN (Civil) 162** is also not applicable to the facts of this case.

18. The petitioners mainly sought transfer on the ground that the trial court has not clubbed the original suit and EAs as ordered by the Hon'ble Supreme Court and has posted the Execution Petitions shortly without giving them sufficient opportunity. A perusal of the records makes it clear that the petitioners and the respondents have been battling their cases since 2019 and so far no trial or enquiry has commenced in both cases in spite of 7 years having lapsed. The Hon'ble Supreme Court has passed an order dated 10.02.2026 in SLP (C) No.16254 of 2025, in which it is held in paragraph Nos.32 to 36 as follows:

> *"32. We also find no reason to look into the plea of multiple proceedings and conflicting orders being passed especially noticing Annexure P-27 wherein the suit and the objection under Section 47 of the CPC*

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were clubbed together to be tried by the Principal District Judge, Tirunelveli before whom the execution petitions were pending. We set aside the impugned orders of the High Court and the Trial Court, allowing the application under Order VII Rule 11 and restore the plaint to the files of the Principal District Court, Tirunelveli, which rejected the plaint after the transfer by Annexure P-31. ***The suit shall be tried alongwith the objection raised under Section 47 of the CPC.***

33. Before we part with the case, we have to observe that after arguments were concluded and the judgment reserved, on the next day, Sh. Niranjan Reddy, learned Senior Counsel appearing for the respondents herein, made a submission before us that there could be a mediation. We directed the learned Counsel representing the appellants. also to be present in the afternoon, when the suggestion of a further mediation was fiercely opposed by Sh. Gopal Sankaranarayanan and Sh. V. Prakash, learned Senior Counsel appearing for the appellants, that having been already attempted and failed. In unequivocal terms, we informed Mr. Reddy that if the respondents withdrew all the contentions regarding the KBPP and the document dated 02.01.2019, still, there could be an arbitration which would relieve the parties of further litigation delaying the process of partition especially since the businesses are remaining with the Administrator, as directed in the revision against the execution proceedings.

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34. We make it clear that it would be open for the parties to make the plea of relegating them to an Arbitration when they appear before the Principal District Court, Tirunelveli before whom the suit and the execution proceedings are pending. We make it clear that the plea could only be of an arbitration and not a mediation, in which event, the respondents/judgment-debtors/defendants will, on affidavit, agree and undertake to withdraw all the contentions regarding the KBPP and the document dated 02.01.2019, so as to initiate an arbitration afresh dehors the two contentious documents, which shall be facilitated through any suitable Arbitrator, mutually agreed upon by the parties.

35. The appeals are allowed with the above reservation of an arbitration made possible and that of the findings herein not governing the final adjudication of the suit and the objections under Section 47; except the rejection of the plea of constructive res judicata which plea cannot be now raised by the respondents/defendants.

36. Pending applications, if any, shall stand disposed of."

From the above order, it is clear the Hon'ble Supreme Court has ordered that "***The suit shall be tried along with the objection raised under Section 47 of the CPC."***

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From the report of the Presiding Officer and submissions of respondents side, it is clear that both the original suit as well as Execution Petitions are being adjourned simultaneously for hearing on the same dates. There is no material produced by the petitioners to show that the trial Court has adjourned the suit and EPs to different hearing dates.

19. The petitioners next urged for transfer of the case on the ground that the Presiding Officer passed a biased order by quoting the docket order dated 18.09.2026, which is already stated supra. On perusal of the same, it is seen that the Presiding Officer has insisted that the petitioners to commence the trial since the suit and execution petitions have been pending for more than 7 years, as there is a direction of this Court for disposal of matters within the stipulated time. The respondents have submitted that this Court passed an order in Tr.CMP(MD)Nos.301 to 303 of 2023 dated 30.06.2023, in which it is ordered in paragraph No.31 as follows:

> *"31. The learned Principal District Judge, Tirunelveli shall endeavor to dispose of all the above mentioned proceedings as expeditiously as possible preferably, within a period of 12 months from the date of receipt of a copy of this order."*

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This order was not denied by the petitioners and they have not challenged the same before any appellate Forum.

20. At this juncture, whether the docket order passed by the Presiding Officer can be termed as biased order as alleged by the petitioner has to be looked into. A perusal of the docket order dated 18.09.2026, the Presiding Officer has passed the following order:

> *"An application for execution filed by the defendants pending more than 5 years. Seeing the plaintiff delaying the suit by not commencing trial, becomes clear that the plaintiffs intention of not letting to complete the execution petition and it should be delayed. Therefore, this court cannot allow such kind of action of plaintiff and decided that one more opportunity may be given to the plaintiff for commencing trial in the interest of justice. Trial by 21.09.2026. If the plaintiffs fails to use this opportunity to commence trial, suitable order will be made for disposal of this suit'.*

A perusal of the same, it is clear that the Presiding Officer did not declare that he would pass an order against the petitioner if they failed to commence the trial, instead it is merely mentioned that that a suitable order would be made for disposal of the suit if the petitioners failed to use

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this opportunity to commence the trial. So, it is clear that the petitioners were given sufficient opportunity before that hearing date and were also insisted to commence the trial because of long pendency of cases.

21. The citations of respondents were considered. The Hon'ble Supreme Court in **Usmangani Adambhai Vahora case (2016) 3 SCC 370** held that transfer is not to be ordered at the drop of a hat and that there should be a reasonable apprehension that there would be a miscarriage of justice. The Hon'ble Supreme Court has held in **Ashish Chadha case (2012) 1 SCC 680** that mere not granting an adjournment to a litigant will not be a ground for transfer as bias. This Court has held in the case of **D.Socratees in Tr.CMP(MD) No.117 of 2025** that a litigant who suppressed the direction of disposal and levelled allegations against the Presiding Officer will not be a ground for transfer of the case.

22. The learned Senior Judge of this Court has held in the **Sagayam case in Tr.C.M.P.(MD)No.332 of 2026 dated 07.08.2026**, in paragraph Nos. 9 to 11, as follows:

> *"9. In the case on hand, chronology of events evident from the records and the remarks submitted by the learned Judicial Officer reveals that many*

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opportunities were afforded to the petitioner to adduce his side evidence, but the same was not utilised by him. When a specific condition was imposed in I.A.No.1 of 2025 that he has to appear and adduce evidence on a particular date, complying with the payment of costs alone was not sufficient to record proper compliance of the directions issued. Even thereafter, when the petition to restore the petition in I.A.No.1 of 2025 was filed in I.A.No.2 of 2026, that was also allowed and further opportunity was afforded to adduce his evidence and the same was also not utilised.

10. On perusing the remarks of the learned Judicial Officer, the explanation offered satisfactorily answers the allegations levelled by the petitioner and this Court does not find any iota of material to infer that the learned Judicial Officer acted with bias, prejudice or in pre-determined mind against the petitioner. But on the other hand, the records would reveal that the learned Judicial Officer has given sufficient opportunities and attempted to strike the balance between the petitioner's right to adduce evidence and the obligation to ensure expeditious disposal of more than 10 years old suit.

11. It is well settled that the power to transfer a case is to be exercised sparingly and only when there exists a reasonable apprehension, founded on cogent and acceptable material, that a party to the lis may not receive a fair and impartial trial before the concerned Court. Such apprehension cannot rest on conjectures

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or surmises, or merely on account of dissatisfaction with judicial orders passed by the Court. Having regard to the entire facts and circumstances of the case, this Court has no hesitation in holding that the petitioner has failed to make out any valid or sufficient ground for transfer of the suit. Consequently, this Court concludes that the Transfer Petition is liable to be dismissed."

A perusal of the above order, it is clear that the exercise of discretion by the Presiding Officer in conducting trial of cases is not a ground for transfer and insisting the parties to co-operate for expeditious disposal of a case is not a bias, as rightly argued by the respondents side.

23. In this case on hand, the petitioners have stated that they apprehend bias as the Presiding Officer returned the amendment petition and urged them to commence trial. There is no dispute that the suit has been pending since 2022 and the petitioners, being plaintiffs, are not ready to commence trial, but instead they have been filing petitions for amendment, recasting issues and to receive a reply statement. In spite of the trial Court allowing the amendment petition already filed by the petitioners, again the petitioners filed another petition for amendment on 18.09.2026 which was returned by the trial Court and directed them to commence the trial as the suit has been pending for more than 4 years and

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also Execution Petitions are pending more than 7 years even though there is a direction of the Hon'ble Supreme Court through each High Court for speedy disposal of execution petitions within six months. The petitioners have suppressed the direction of disposal of the case by this Court, instead, they filed a memo stating that there is no direction by the Hon'ble Supreme Court for disposal of the matters on hand, which is not acceptable one.

24. It is pertinent to note here that the Petitioners have filed a rejoinder in which they have averred that the Presiding Officer has been promoted subject to the result of vigilance enquiry pending against him. This averment in rejoinder is not entertainable, it is a matter between the officer and the High Court, with which the petitioner has no concern. It is not their case that the Presiding Officer has passed any biased interim order or final order against the petitioners. There is no such material produced by the petitioners. Considering the above facts and circumstances, this Court is of the considered view that the petitioners apprehension alleged in this petition is not a ground for transfer and this Court is not inclined to allow this petition. The petitioners shall cooperate for the early disposal of matters pending before the trial Court in view of the order of the Hon'ble Supreme Court in SLP (C) No.16254 of 2025

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and order of this Court in Tr.CMP(MD)Nos.301 to 303 of 2023.

25. In the result, this Transfer Civil Miscellaneous Petition is dismissed. The trial Court is directed to proceed the suit in O.S.No.72 of 2022 and E.A.Nos.2 of 2021 in each of E.P.Nos.61 to 63 of 2019 and dispose all the matters within a period of six months from the date of receipt of a copy of this order after giving sufficient opportunities to both parties for adducing their side evidences. No costs. Consequently, the Connected Civil Miscellaneous Petition is closed.

18.11.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

VSD

To

1.The V Additional District Judge,
Valliyoor.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
TR CMP(MD) No. 508 of 2026
AND
CMP(MD) No. 13393 of 2026

18.11.2026

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