

KIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2015

CORAM

THE HONOURABLE MR.**JUSTICE D.HARIPARANTHAMAN**

C.R.P (PD) No.3840 of 2015

and M.P.No.1 of 2015

1.P.Anguraj

2.P.Saravanan

... Petitioners

VS.

1.Rukmani Ammal

2.Paramasivam Pillai

3.Rajammal

4.Ravi

5.Govindan

6.Sarojini

7.Deenadayalan

8.Thangaraj

.... Respondents

Civil revision petition has been filed under Article 227 of the Constitution of India against the fair and final order dated 19.2.2015 made in Tr.O.P.No.208 of 2014 on the file of the Principal District Court, Salem.

For petitioners : Mr.T.Murugamanickam

ORDER

The revision petitioners herein filed Tr.O.P.No.208 of 2014 under Section 24 C.P.C. seeking to transfer REP No.101 of 2010

pending on the file of the II Additional District Munsif Court, Salem to the file of II Additional Sub Court, Salem for joint trial along with O.S.No.489 of 2012. The learned Principal District Judge, Salem dismissed the transfer OP on 19.2.2015. The present revision petition is against the aforesaid order.

2. I have heard the learned counsel appearing for the revision petitioners.

3. REP No.101 of 2010 that is pending on the file of II Additional District Munsif Court, Salem, is an execution petition that arises out of the decree passed by the said Court in O.S.No.929 of 1989, which is a partition suit. A preliminary decree was passed in the said suit on 30.11.1992. Thereafter, final decree was also passed on 30.12.2004. To execute the same, REP No.101 of 2010 was filed and the same is pending for disposal on the file of II Additional District Munsif Court, Salem.

4. While so, the revision petitioners filed O.S.No.489 of 2012 before the II Additional Sub Court, Salem and they filed Tr.O.P.No.208 of 2014 to transfer REP No.101 of 2010 pending on the

file of II Additional District Munsif Court, Salem to the file of II Additional Sub Court, Salem to try along with O.S.No.489 of 2012. The learned Principal District Judge, Salem found that the execution petition can be entertained only in the Court where the final decree was passed. Further, the learned Judge has also found that the revision petitioners are not parties in the execution petition. In view of those reasons, the learned Principal District Judge, Salem rejected the transfer OP. I am in entire agreement with the reasons given by the learned Principal District Judge, Salem. I am not inclined to interfere with the same and the revision petitioners cannot seek to achieve their object of stalling the execution proceedings when the final decree was passed in the year 2004 itself. Hence, the revision petition fails and the same is liable to be dismissed.

5. In the result, the order of the learned Principal District Judge, Salem, dated 19.2.2015 made in Tr.O.P.No.208 of 2014 is confirmed and the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

01.10.2015

Index:Yes/No
sbi

To

The Principal District Judge,
Salem.

D.HARIPARANTHAMAN,J.

sbi

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