**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Date : 17.02.2015**

**CORAM**

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM**

**C.R.P (PD)No.456 of 2015**
**and M.P.No.1 of 2015**

1.Ashraf Ali
2.Noorullah ... Petitioners / Plaintiffs

Vs

1.M/s.Naulband Mosque Trust
Rep.by M.A.Kuddus (Deceased)
Now rep.by Secretary,
R.Md Rafiq Babu Sait
No.72, Ellis Road,
Chennai – 600 002.

2.Mrs.Sherifa Bi ... Respondents/Defendants

**Prayer:** Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the order dated 11.03.2014 passed by XIII Asst. City Civil Judge, Chennai in I.A.No.1396 of 2013 in O.S.No.8974 of 2011.

For Petitioners : M/s.Saddiq Ali
For Respondents : Mr.M.Murthy

**O R D E R**

This revision is directed against the order passed by the

XIII Asst. Judge, City Civil Court, Chennai in I.A.No.1396 of 2013 in O.S.No.8974 of 2011.

2. The petitioners had instituted a suit against the respondents for permanent injunction. The suit was dismissed for non-prosecution on 15.11.2012. The application filed by the petitioners in I.A.No.1396 of 2013 under Order 9 Rule 9 CPC to restore the suit was dismissed and another application filed by the petitioners in I.A.No.1395 of 2013 to implead the first respondent mosque as defendant in the suit was also dismissed.

3. Mr.Saddiq Ali, learned counsel for the petitioners submitted that the petitioners have filed an appeal challenging the order passed in I.A.No.1395 of 2013.

4. Per contra, Mr.T.Velumani, learned counsel for the respondents submitted that the suit itself is not in existence and the interim application filed to implead the first respondent cannot be maintained.

5. It is not in dispute that the application filed by the petitioners to restore the suit was already dismissed. Therefore, at

this stage, the petitioners cannot maintain this revision.

6. In view of the above finding, this Civil Revision Petition is dismissed. However, it is open to the petitioners to move application after restoration of the suit. No costs. Consequently, connected Miscellaneous Petition is closed.

17.02.2015

Index:Yes/No
rgr

To

The XIII Asst. Judge,
City Civil Court,
Chennai.

**K.KALYANASUNDARAM,J**

rgr

**Order in**
**C.R.P (PD)No.456 of 2015**

**17.02.2015**