

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(NPD) No.487 of 2015

and

C,R.P.(PD).No.488 of 2015

and

M.P.Nos.1 & 1 of 2015

1. Chinnammal
2. Thangammal
3. Vasu
4. Rathinammal
5. Bhuvaneswari
6. Usha Rani

... Petitioners in both CRPs  
Vs.

1. Lakshmi

.. 1<sup>st</sup> respondent in C.R.P.  
No.487/2015/Respondent  
in CRP No.488/2015

Vediappan (Died)  
Ramalingam (Died)

2. Iruasa Gounder
3. Andi Gounder
4. Ranganathan
5. Muthu Nadar,
6. Sampath
7. Arumuga Mudaliar
8. Murugan
9. Arumugam Chettiar
- 10.Kandasamy
- 11.Richardson & Crude's Ltd.,
- 12.Rajammal
- 13.K.Jeyaraj

14.K.Ponnusamy

15.K.Krishnan

16.K.Arjunan

17.K.Balusamy

18.K.Gopal

19.K.Palaniammal

20.K.Amsa

21.R.Jothi

22.R.Gokul

23.R.Sinduja

... Respondents 2 to 23  
in C.R.P. No.487/2015

**PRAYER in CRP 487 of 2015:** This Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the Fair and Decreetal order dated 21.01.2015 rejecting the application in unnumbered Transfer O.P.No. Of 2015 on the file of the Principal District Judge, Salem in REA No.284 of 1999 in REP No.62 of 1998 in O.S.No.421 of 1984 on the file of I Additional Sub Judge, Salem.

**PRAYER in CRP 488 of 2015:** This Civil Revision Petition filed under Article 227 of the Constitution of India against the Fair and Decreetal order dated 21.01.2015 rejecting the application in Unnumbered Transfer O.P.No. Of 2015 in O.S.No.129 of 2007 on the file of I Additional Sub Judge, Salem.

For Petitioners : Mr.P.Jagadeesan

For Respondents : Mr.T.R.Rajaraman  
for Ms.P.Veena

### **COMMON ORDER**

These civil revision petitions have been filed challenging the orders dated 21.01.2015 passed by the Principal District Judge, Salem, in unnumbered

Transfer Original Petition Nos. nil of 2015 filed in REA No.284 of 1999 in REP No. 62 of 1998 in O.S.No.421 of 1984 and O.S.No.129 of 2007 respectively.

2. The Petitioners in both the civil revision petitions are the plaintiffs in O.S.No.421 of 1984 and defendants 1 to 6 in O.S.No.129 of 2007 on the file of the First Additional Sub Court, Salem.

3. The petitioners have succeeded in O.S.No.421 of 1984 and levied an execution petition in REP No.62 of 1998, in which, the first respondent has filed a petition in REA No.284 of 1999 under Order 21 Rules 97, 99 and Section 151 CPC. The petitioners have filed transfer petitions seeking transfer of the execution petition and the suit in O.S.No.129 of 2007 alleging that the first respondent's husband Mr.Jayaraj is working as a Process Server in District Court, Salem and therefore, the first respondent was proclaiming that she will succeed in these cases. The petitioners have also raised other allegations, but, the learned Principal District Judge, Salem, without even numbering, dismissed the transfer petitions.

4. Mr.P.Jagadeesan, learned counsel for the petitioners submitted that the learned Judge ought to have numbered the petitions and decided after hearing the case of the petitioners. The finding recorded by the learned

Principal District Judge, Salem, without hearing the parties, cannot be sustained.

5. Per contra, Mr.T.R.Rajaraman, learned counsel for the respondents submitted that the petitioners have been unnecessarily prolonging the case and in CRP (NPD).Nos.3381, 3382 and 3668 of 2014, this Court has given a direction for disposal of the case within a period of two months. The learned counsel further submitted that the respondents have already advanced their arguments and at this stage, the petitioners have filed the transfer applications only to prolong the litigation.

6. It is true that in earlier revision petitions, this Court issued a direction for disposal of the case within a stipulated period. However, the learned District Judge, without even hearing the petitioners, rejected their petitions.

7. It is settled law that if any application is filed, they can be disposed of after numbering, if it is maintainable in law. The discretion to grant interim orders in the transfer petitions is left to the Judge, but, in this case, the learned District Judge has dismissed the petitions without numbering and without affording an opportunity to the petitioners to put forth their case. On this short ground, the impugned orders are set aside. The learned Principal District Judge, Salem, is directed to dispose of the transfer applications after hearing the

parties.

8. In the result, these civil revision petitions are allowed. No costs.

Consequently, connected miscellaneous petitions are closed.

**06.02.2015**

Index : Yes/No  
Internet : Yes/No  
sms

To  
The Principal District Judge, Salem

K.KALYANASUNDARAM, J.

sms

Pre-Delivery Order in

C.R.P.(NPD) No.487 of 2015

and

C,R.P.(PD),No.488 of 2015

and

M.P.Nos.1 & 1 of 2015

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