

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.3300 of 2015 &
M.P.No.1 of 2015

Mani

... Petitioner

v.

1.Mangammal

Muthuvediammal (died)

2.Kaliammal

3.Ambiga

4.Poongodi

5.Saradha

6.Pothan

7.Krishnamoorthy

8.Madhu

9.Ganesan

10.Kuppu

11.Raja

12.Rajendiran

13.Stellah Mary

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of
India to set aside the order dated 27.03.2015 passed in Transfer Original

Petition No.01 of 2014 in O.S.No.05 of 2009 on the file of Principal District Court, Dharmapuri.

For Petitioner : Mr.R.Subramanian
for Mr.MA.P.Thangavel

O R D E R

Challenging the fair and final order passed in Transfer Original Petition No.01 of 2014 in O.S.No.05 of 2009 on the file of Principal District Court, Dharmapuri, the 5th defendant in O.S.No.05 of 2009 on the file of District Munsif Court, Palacode, has filed the above Civil Revision Petition.

2. The 1st respondent-plaintiff filed the suit in O.S.No.05 of 2009 for partition.

3. The Trial Court passed a preliminary decree on 22.12.2011.

4. Aggrieved over the preliminary decree passed by the Trial Court, the 5th defendant filed an application in I.A.No.16 of 2013 in an unnumbered A.S.SR.No. .../2013 on the file of Sub Court, Dharmapuri, to condone the delay of 320 days in filing the appeal.

5. Pending the said application, the 5th defendant filed Transfer Original Petition in Transfer O.P.No.01 of 2014 before the Principal District Court, Dharmapuri to transfer the final decree application in I.A.No.315 of 2012 in O.S.No.05 of 2009 on the file of Sub Court, Dharmapuri and try the same along with the appeal preferred as against the preliminary decree passed in O.S.No.05 of 2009.

6. Since the final decree application has been filed before the District Munsif Court, Palacode, which passed the preliminary decree, the Principal District Court has rightly dismissed the Transfer Original Petition filed by the 5th defendant.

7. Mr.R.Subramanian, learned counsel appearing for the petitioner submitted that the 5th defendant is not in a position to move the stay petition before the Sub Court, Dharmapuri, for the reason that the condone delay application in I.A.No.16 of 2013 filed in unnumbered A.S.SR. /13 is pending for more than two years.

8. I do not find any error or irregularity in the order passed by the Principal District Court in rejecting the Transfer Original Petition. In these circumstances, the Civil Revision Petition is liable to be rejected. Accordingly, the Civil Revision Petition is dismissed. However, I direct the Sub Court,

Dharmpuari, to dispose of the application in I.A.No.16 of 2013 in unnumbered A.S.S.R.No. .../2013 on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

11.01.2016

Note : Issue copy of the order on 18.01.2016

Rj

To

The Principal District Court,
Dharmapuri.

M. DURAISWAMY,J.,

Rj

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M.P.No.1 of 2015

11.01.2016