

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Tuesday, the Twenty Ninth day of August Two Thousand Seventeen

PRESENT

THE HON`BLE MR JUSTICE RAJIV SHAKDHER

AND

THE HON`BLE MR JUSTICE ABDUL QUDDHOSE

CMP No.14471 of 2017

IN OSA.SR38840/2015

1 MRS. ELLAMAL [PETITIONERS]

2 MR. S. VENKATEAN

Vs

1 MRS. VALLI AMMAL [RESPONDENTS]

2 MRS. KASIAMMAL

3 MRS. SARADHA

4 MR MUNIYAMMAL

5 MRS. AMUDA

6 DEEPAK KUMAR

REP BY GUARDIAN AND MOTHER MRS. VANITHA NO.
B-403 ARIGNAR ANNA STREET, HARBOUR
QUARTERS, CHENNAI 600 81

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to accepted as cause title in the above OSA SR No. 38840 of 2105 (in CMP No.14471 of 2017 pending disposal of the above OSA.SR38840/2015.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.S.GIRITHARAN, Advocate for the petitioner the court made the following order:-

1. The substantive prayer made in the petition is as

follows:

"The cause title as mentioned herein above be not accepted as cause title in the above O.S.A.Sr.No.38840 of 2015."

2. In the affidavit, accompanying the petition, it is submitted that since defendant No.3, i.e., Mr.Janakiraman died during the pendency of the suit, his legal heirs namely, Vanitha and a Minor Deepak Kumar were brought on record as per order dated 02.07.2009 passed in A.No.5377 of 2008 in the suit, out of which, the instant appeal arises.

2.1. It is further averred that the said legal heirs were impleaded as defendant Nos.9 and 10. Accordingly, the petitioner avers that the deceased defendant No.3 was not added as a party in the appeal.

2.2. Furthermore, it is averred that given the stand taken by defendant Nos.7 and 8 in their written statement, filed in the suit, no cause of action arises as against the said defendants. Therefore, they are not added as respondents in the accompanying appeal. Accordingly, it is submitted by the petitioner that only those respondents have been arrayed as parties, against whom cause of action has arisen, and continue to remain necessary parties. It is, thus, pointed out that it is for the foregoing reasons that the cause title of the appeal differs from that which is reflected in the final decree passed in the suit.

3. Having regard to the averments made in the affidavit, accompanying the petition, the prayer made in the petition is allowed, subject to just exceptions.

4. A copy of the order will be dispatched by the Registry to the respondents in the captioned petition, without insistence on process fee.

-sd/-
29/08/2017
/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SUB ASSISTANT REGISTRAR
ORIGINAL SIDE HIGH COURT MADRAS.

C.C. to M/S.S.GIRITHARAN Advocate on payment of necessary charges

The Government Advocate, High Court, Madras - 104.

Order

in
CMP.14471/2017

in
OSA.SR38840/2015

Date :29/08/2017

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
VC (11/09/2017)