



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Twenty First day of March Two Thousand Seventeen

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

WEB COPY

CMP(MD) No.9044 of 2016
IN
CRP(MD) No.1454 of 2016

1 K.KARUTHAMMAL
2 MUTHU @ MUTHULAKSHMI
3 K.PAUNRAJ
4 K.UCKIRAIPANDI

... PETITIONERS/PETITIONERS

Vs

1 R.KASAMMAL
2 K.RAJAVADIVEL
3 MUTHUPANDIAMMAL
4 S.R.THANGAPANDI
5 S.R.SONAIMUTHIAH
6 S.R.THANGARAMAN
7 SATHYA
8 RAMAR

... RESPONDENTS/RESPONDENTS

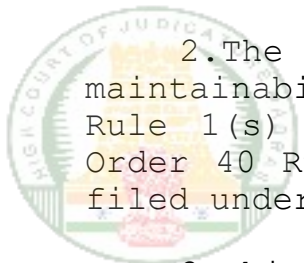
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to convert the above Civil Revision Petition in CRP(MD)No.1454 of 2016 into Civil Miscellaneous Appeal and the same kindly be taken on file and pass such other orders as this Honourable Court.

Prayer in CRP(MD) . 1454/ 2016 :

To set aside the fair and decreetal order dated 12.09.2015 made in I.A.No.221/2013 in O.S.No. 19/2013 on the file of learned IVth Additional District Judge Madurai

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. C.JEGANNATHAN, Advocate for the petitioner and of M/S D.SADIQ RAJA, Advocate for R1 & R3, M/S.PALA RAMASAMY for R2, R4 to R6 on behalf of the Respondents the court made the following order:-

This application is filed to convert CRP(MD)No.1454 of 2016 filed under Article 227 of the Constitution of India, against the dismissal of the interlocutory application filed under Order 40 Rule 1 CPC for appointment of receiver.



2.The respondents herein have raised objection regarding the maintainability of the revision petition in the light of Order 43 Rule 1(s) which provides appeal against the order passed under Order 40 Rule 1. Therefore, the present miscellaneous petition is filed under Section 115 CPC to convert this CRP into CMA.

3.This Court is of the opinion that conversion of the revision petition filed under the supervisory jurisdiction of the High Court need not be done, but granting liberty to the revision petitioner to withdraw CRP(MD)No.1454 of 2016 and file a fresh Civil Miscellaneous Appeal before appropriate forum, saving the limitation caused due to approaching wrong forum, is suffice.

4.Accordingly, liberty is given to the revision petitioner to withdraw CRP(MD)No.1454 of 2016 and file a fresh Civil Miscellaneous Appeal. For reckoning the period of limitation, pendency of CRP(MD) No.1454 of 2016 may be excluded.

sd/-
21/03/2017

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO
THE IVTH ADDITIONAL DISTRICT JUDGE MADURAI

Copy to
The Section Officer,
VR Section, Madurai Bench of Madras High Court, Madurai
(to return the original document after taking photo copies of the order)

+1cc to Mr.Pala Ramasamy, Advocate, Sr No,16591
+1cc to Mr.Veera Associates, sr No.16405

ORDER
IN
CMP(MD) No.9044 of 2016
IN
CRP(MD) No.1454 of 2016
Date :21/03/2017

MS/sv.mms/22.03.2017/2p.5c