

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.479 of 2019

1. M.Thangamariammal
2. M.Thangapriya
3. M.Anitha
4. M.Priyanka
5. M.Arunjuna

.... Petitioners

-vs-

1. A.Rajammal (dead)
2. V.Chellapappa
3. H.Ramasamy
4. R.Kamaraj
5. R.Sekar
6. R.Chinna Krishnan
7. R.Ramachandran
8. R.Thangaraj
9. R.Kumar

.... Respondents

Transfer Civil Miscellaneous Petition filed under Section 24 (b) (ii) of the Code of Civil Procedure to withdraw Letters of Administration O.P.No.142 of 2007 now pending on the file of the Principal District Judge at Tiruvallur and transfer the same to the file of this Hon'ble Court on its Testamentary Original jurisdiction.

For Petitioners :: Mr.A.V.Arun

ORDER

This transfer civil miscellaneous petition has been filed after a long time with a huge delay of 12 long years and no Court on earth can entertain this type of transfer civil miscellaneous petitions.

2. Learned counsel for the petitioners stated that the only surviving attesting witness Mr.S.Subbiah, now aged 76 years, is a designated Senior Advocate and since he is facing difficulties in staying in the Court from 11.45 AM to 4.15 PM, as the Court is not accommodating to facilitate the Senior Advocate to come and tender his evidence as a scribe and attesting witness, an

application was moved for appointment of an Advocate Commissioner to examine Mr.S.Subbiah, Senior Advocate through an Advocate Commissioner. But the Court below dismissed the application by an order dated 25.3.2019 and pursuant to that order, a civil revision petition was filed. That shows that the petitioners have been diligently and seriously prosecuting the matter. Yet, the O.P.No.142 of 2007 pending on the file of the Principal District Court, Thiruvallur has not been disposed of. Hence, the prayer to withdraw Letters of Administration O.P.No.142 of 2007 pending on the file of the Principal District Judge at Tiruvallur to be transferred to the Testamentary Original jurisdiction of this Court.

3. But this Court is unable to entertain this transfer civil miscellaneous petition, for the following reasons. Firstly, the petitioners themselves have admitted that they filed the case initially before the learned Principal District Judge, Chengalpet and after sometime, due to bifurcation, it was transferred to the file of the learned Principal District Judge, Tiruvallur and numbered as O.P.No.142 of 2007. When the matter was pending for quite a long time, the respondents came to this Court with Tr.C.M.P.No.393 of 2011 to withdraw the O.P.No.142 of 2007 pending on the file of the learned Principal District Judge, Tiruvallur to be transferred to the original side of this Court. But this Court, by order dated 23.8.2012, finding no merits whatsoever, dismissed the transfer civil miscellaneous petition on the ground that the O.P.No.142 of 2007 was already dismissed and thereupon the prayer for transfer became infructuous. That shows that at no point of time, the petitioners were interested to prosecute the matter. Secondly, when the O.P.No.142 of 2007 was filed 12 long years ago, it is not known how they have not taken any steps whatsoever for prosecuting the matter for an early disposal or moved this Court for transfer, as it is a matter of fact that any diligent litigant could have taken steps to dispose of the case. But now, after 12 years, transferring the matter to the file of this Court will again procreate more delay. Therefore, it is safe not to transfer the case after 12 long years. Hence, the Tr.C.M.P.No.479 of 2019 fails and it is dismissed. Consequently, C.M.P.No.13523 of 2019 is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ss

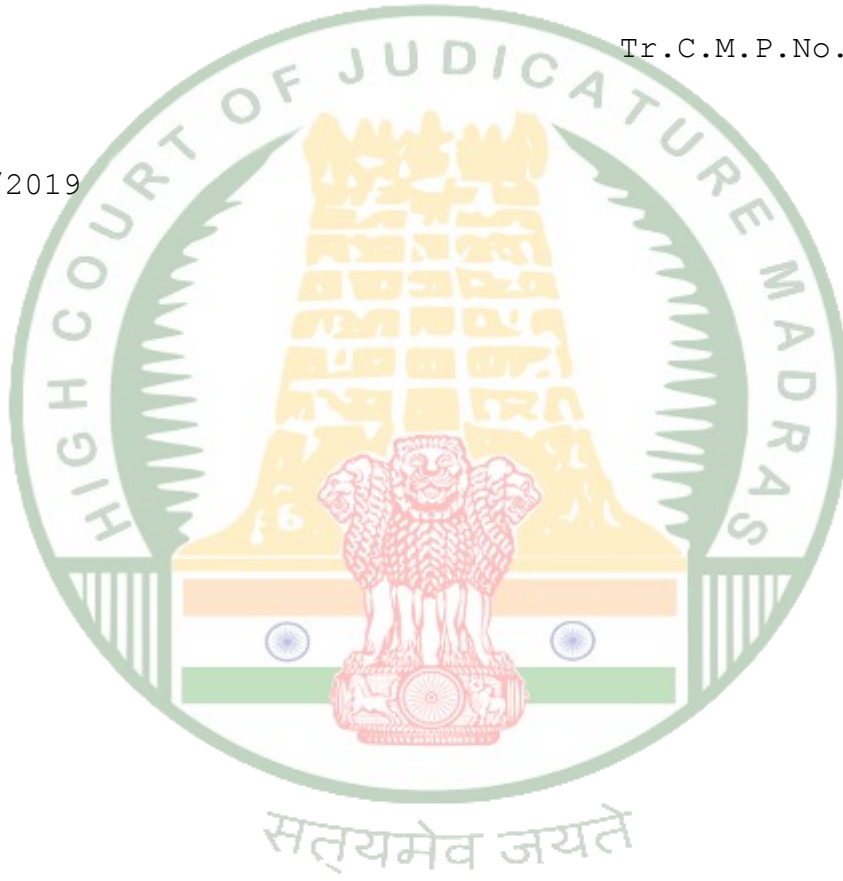
To

The Principal District Judge,
Tiruvallur.

+lcc to Mr.A.V.Arun, Advocate Sr.54773

Tr.C.M.P.No.479 of 2019

jp[col
srg 23/07/2019



WEB COPY