

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.04.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(NPD)No.3691 of 2018
and
CMP.No.23384 of 2018

1. V. Rajendran
2. Rajagopal
3. Palanivel
4. Visalatchi
5. Palaniammal
6. Varutharaj
7. V. Selvaraj
8. V. Muniappan
9. Mariammal
10. Balamurugan
11. L. Srinivasan
12. Angammal
13. Deivanai
14. Manimekalai
15. Alamelu
16. P. Kandasamy
17. M. Murugesan

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-vs-

... Petitioners

1. R. Saravanan
2. Maniam
3. R. Shanmuga Raja
4. Rajamanickam
5. Janarthanan
6. Mary Ester Sheela

7. Immanuvel Vasanth
8. Helen
9. Kalpana
10. Parimala
11. Margaret Selvi
12. Metilla
13. Arun
14. Amsaveni

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order and decretal passed in Tr.O.P.No.345 of 2015 dated 20.04.2018 on the file of the Principal District Judge, Salem.

For Petitioner : Mr. Tholgappian R.

ORDER

The above Civil Revision Petition is filed challenging the dismissal of the Application seeking transfer of the Interlocutory Application in I.A.No.663 of 2004 in O.S.No.154 of 1998 pending on the file of the District Munsif's Court, Sankari to be tried along with the suit O.S.No.65 of 2013 pending on the file of the III Additional District Court, Salem. I.A.No.663 of 2004 is an Application filed under the provisions of Order IX Rule 9 of the Civil Procedure Code to restore the suit, which has been dismissed for default, and the same is still

pending consideration. In O.S.No. 65 of 2013, the Application is moved under section 24 of the Civil Procedure Code which contemplates transfer of any suit, appeal or other proceedings. In the explanation, proceedings includes execution of decree or order. In the instant case, the interlocutory application has been filed for restoring the suit which has been dismissed for default. Without the suit being restored on file, the transfer cannot be asked for. In so far as the above order passed by the learned Principal District Judge, Salem does not suffer from any infirmity, the Civil Revision Petition stands dismissed.

2. The learned counsel for the revision petitioner's would contend that though the Petition for restoring the suit, which has been dismissed for default, was filed as early as in the year 2004, the learned Subordinate Judge, Sankari as on date has not disposed of the said Application. The learned Subordinate Judge, Sankari is directed to dispose of the said viz, I.A.No.663 of 2014 in O.S.No.154 of 1998 Within a period of 15 days from the date of receipt of a copy of this order on its production.

04.04.2019

Index : Yes/No
Internet : Yes/No
Speaking/non-speaking order

mrn

P.T. ASHA, J.,

mrn

To

1. The Principal District Judge,
Salem.

2. The Subordinate Judge,
Sankari



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