

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(PD).No.2388 of 2013
and
MP.No.1 of 2013

1.K.C.Elizabeth @ K.C.Mallika (died)

2.K.Chakaravarthi

3.K.C.Gopinath

4.Mrs.B.Seela

5.K.C.Rajesh

... Petitioners

[Petitioners 2 to 5 brought on record as LR's
of the deceased 1st petitioner vide order of
this Court dated 24.01.2020 in CMP.No.10715 of 2019]

Versus

1.Samuel Solomon (deceased)

2.Mrs.Padmini Samuel

3.Christina Theodora Samuel

4.Cynthia Carolina Samuel

5.Minor Angelena Catherina Samuel

... Respondents

[Respondents 2 to 5 brought on record as LR's
of the deceased 1st respondent vide order of
this Court dated 27.03.2014 in MP.No.2 of 2013]

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the fair and decretal order of the learned VII Assistant City Civil Judge, City Civil Court, Chennai passed in I.A.No.8850 of 2012 in O.S.No.5354 of 2010 dated 07.01.2013 by allowing the I.A.No.8850 of 2012 to stay the trial in O.S.No.5354 of 2010, which was posted for respondent herein to cross the petitioner herein.

For petitioners: No Appearance

For Respondents: Mr.B.Gopalakrishnan
for Mr.S.Gunalan

ORDER

This Civil Revision petition has been filed, to set aside the order dated 07.01.2013 passed in I.A.No.8850 of 2012 in

O.S.No.5354 of 2010 on the file of the learned VII Assistant City Civil Judge, City Civil Court, Chennai allowing I.A. No. 8850 of 2012 and staying the proceedings in the suit pending disposal of OP No. 49 of 2007 on the file of this Court.

2.In connection to the suit in OS No. 5354 of 2010, a original petition in O.P. No. 49 of 2007 has been filed before this Court by the first respondent herein, for grant of succession certificate, for the death of one Paul Mitra. It is stated that the wife of Paul Mitra namely Dr. Suganam Paul Mitra pre-deceased her husband.

3.Pending the original petition, the revision petitioner viz., K.C.Elizhil @ Malliga filed the suit in O.S. No. 5354 of 2010 before the VII Assistant, City Civil Court, Chennai for declaring that the Judgment and Decree dated 16.02.2016 passed in O.S. No. 828 of 2016 is null and void. The suit was filed on the ground that she is the surviving legal heir of his father Late.Paul Mitra and therefore the decree and Judgment passed in O.S. No. 828 of 2016 will not bind her. Thus, the subject matter of the suit in O.S. No. 5354 of 2010 and the Original Petition in OP No. 49 of 2017 filed by Samuel Solomen are one and the same. Therefore, in the interest of justice, joint trial has to be conducted in OP No. 49 of 2017 and O.S. No. 5354 of 2010 on the file of City Civil Court, Chennai. Therefore, in the interest of justice joint trial has to be conducted as the effect of decision in one case will have a barring effect on the other case. Therefore, by exercising the power under Section 115 of CPC, this Court hereby direct that the suit Pending in O.S.No.5354 of 2010 before the VII Assistant, City Civil Court, Chennai is ordered to be transferred and tried along with Original petition in O.P.No.49 of 2007 pending before this Court. The learned master is hereby directed to record evidence in OS No. 5354 of 2010 and OP No. 49 of 2007 by transferring the case records. Hence, the Civil Revision Petition is ordered accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

klt

To

The VII Assistant City Civil Judge, City Civil Court,
Chennai.

+1 CC to Mr.C. Kalaichelvan, Advocate sr 10558

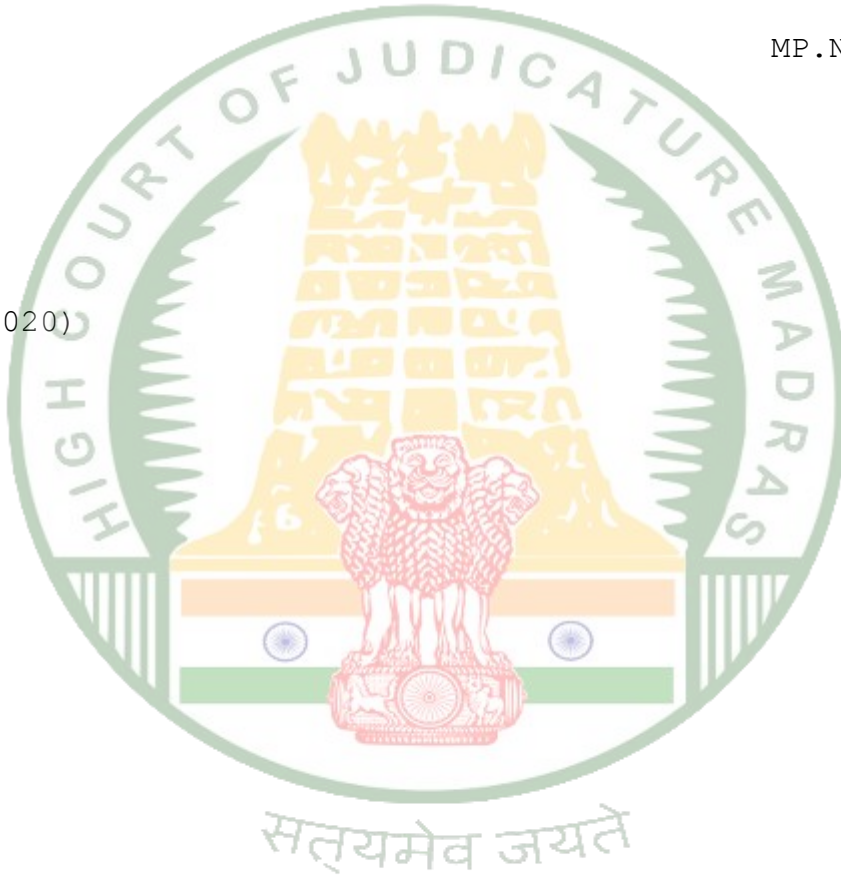
+1 CC to Mr.V.R. Anna Gandhi, Advocate sr 10352.

CRP.(PD).No.2388 of 2013

and

MP.No.1 of 2013

GP (CO)
SP (10/03/2020)



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