

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Transfer C.M.P.Nos.792 & 793 of 2019

Tr.C.M.P. No.792 of 2019

Karunambal (Died)

Sivanandam (Died)

1.Kothandam @ Kothandapani

2.Thirupurasundari

...Petitioners in

Tr. CMP. No.792/2019

vs.

1.M.A.Rajarathina Mudaliar

Balu (died)

Krishnaveniammal (died)

Veeraraghavan (died)

Purushothaman (died)

2.Elumalai

3.Maheswari

4.Dharani

5.Dhanasekaran

6.Rukmani

7.Shenbagavalli

8.Devi (died)

9.Sakunthala (died)

10.Lakshmi

11.Mallika

12.Selvambigai

13.Mohanalakshmi

14.Padmavathi

15.P.Rajakumar

16.P.Srinivasan

17.Somasundaram

18.Lalitha

19.Dayalan

(Respondents 18 & 19 brought on record
as LRs of deceased R8 viz.Devi vide court
order dated 18.12.2019 made in C.M.P.
No.27156/2019)

20.Velu

...Respondents

(R20 brought on record as LR of deceased
R9 viz. Sakunthala vide Court Order dated
18.12.2019 made in C.M.P. No.27168/2019
in Tr.C.M.P. No.792/2019)

Tr.C.M.P. No.793 of 2019
Karunambal (Died)
1.Kothandam @ Kothandapani
2.Thirupurasundari

...Petitioners in
Tr. CMP. No.793/2019

vs.

Krishnaveniammal (died)
Veeraraghavan (died)
Purushothaman (died)
1.Elumalai
2.Maheswari
3.Dharani
4.Dhanasekaran
5.Rubendran
6.Aunthoni
7.Venkatesan
8.Natarajan
9.Rukmani
10.Shenbagavalli
 Devi (died)
 Sakunthala (died)
11.Lakshmi
12.Mallika
13.Selvambigai
14.Mohanalakshmi
15.Padmavathi
16.P.Rajakumar
17.P.Srinivasan
18.Somasundaram

...Respondents

Prayer in Tr.C.M.P. Nos.792 & 793 of 2019
Transfer Civil Miscellaneous Petitions filed under Section 24
of C.P.C., to withdraw O.S. Nos.51 of 2003 and 174 of 1998
from the file of Sub Court, Ponneri and transfer the same to
any other City Civil Court, Chennai.

For Petitioner : Mr.B.Gopalakrishnan
in both cases
For Respondent : Mr.R.Krishnaswamy for R2 to R5
in both cases

COMMON ORDER

When the matter is taken up for hearing,
Mr.R.Krishnaswamy, learned counsel appearing for the
respondents 2 to 5 submitted that he does not have any
objection for the suits being transferred, provided, the suits
are alive as on date. It is his further contention that the
suits have been dismissed for default, due to non-appearance
of the petitioners herein/plaintiffs and that some of the
defendants have already died and their LRs have to be brought

on record, no relief in the present transfer civil miscellaneous petition, can be granted.

2. The learned counsel appearing for the petitioners would submit that he has already filed a petition to set aside the judgment and to restore the suits on file and that the matter has got to be heard.

3. Heard both sides and perused the materials available on record.

4. Taking note of the submissions of both parties and more particularly, the submission made by Mr.R.Krishnaswamy, learned counsel appearing for the respondents 2 to 5 that, as the suits have been dismissed for default and some of the defendants are no more, unless and until the suits are restored on file, the relief sought for in the application for transfer, cannot be granted. Since he has no objection for the matters being transferred in case the suits are restored, this court closes the present transfer civil miscellaneous petitions, with liberty to file fresh transfer civil miscellaneous petitions, if the suits are restored on file.

5. Accordingly, the present transfer civil miscellaneous petitions are closed, with liberty to file fresh transfer civil miscellaneous petitions, if the suits are restored on file. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Asr

To

The Subordinate Judge, Ponneri

+1cc to Mr.B.Gopalakrishnan, Advocate, SR. No. 11470/2020

Tr.C.M.P.Nos.792 & 793 of 2019

SV(CO)

RMP (20/07/2020)