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C.R.P.No.265 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.265 of 2023

and

C.M.P.No.2184 of 2023

Madhaiyan

... Petitioner

Vs.

1.Vijaya

2.Ganesan

3.Palanisamy

4.Saravanan

5.Amudha

6.Vasantha

7.Rani

8.Mallika

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order in



Tr.O.P.No.24/2022 dated 19.09.2022 passed by Learned Principal District Judge at Salem and allow the above C.R.P.

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For Petitioner : Mr.S.Parthasarathy

ORDER

The Civil Revision Petition has been filed against the fair and decreetal order in Tr.O.P.No.24 in 2022 dated 19.09.2022 passed by Principal District Judge at Salem.

2. The Principal District Court, Salem dismissed the transfer application filed by the revision petitioner mainly on the ground that the suit instituted in O.S.No.20 of 2019 was not pending at the time of consideration of the Transfer Original Petition, since the suit was dismissed for default. However, the suit was restored after passing order by the District Court in the transfer petition.

3. Mere pendency of the transfer petition is not a ground to transfer the suit, which was already dismissed for default. Thus, the Principal District Court, Salem is right in dismissing the Transfer Original Petition on the



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ground that the suit is not pending during the relevant point of time. After restoration of the suit, the revision petitioner is at liberty to file a fresh transfer application seeking the relief.

4. In view of the facts and circumstances, the revision petitioner is at liberty to approach the Principal District Court, Salem for appropriate relief.

5. Accordingly, the fair and decreetal order dated 19.09.2022 in Tr.O.P.No.24 of 2022 passed by the Principal District Judge, Salem stands confirmed and consequently, the Civil Revision Petition in C.R.P.No.265 of 2023 is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.02.2023

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Index : Yes
Speaking order
Neutral Citation : Yes



To

The Principal District Judge,
Salem.

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S.M.SUBRAMANIAM, J.

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