



C.R.P.No.3998 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3998 of 2023
and
C.M.P.No. 24513 of 2023

M.Kanniammal

... Petitioner

-Vs-

1. N.Santhosh Kumar
2. M.Sam Meesha
3. Lilly
4. Baskar
5. Poulina
6. Milkal
7. Saral
8. Rosilin

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order passed in unnumbered Review Petition in SR.No.4930 of 2023 in Transfer O.P. No.331 f 2022 dated 16.08.2023 on the file of Principal District Court, Thiruvallur.



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For Petitioner

: Mr.R.Balasubramanian

ORDER

Challenging the impugned order passed in an unnumbered Review Petition in SR.No.4930 of 2023 in Tr.O.P.No. 331 of 2022 by the Principal District Judge, Thiruvallur, the Revision Petitioner/defendant preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the original plaintiff filed a suit in O.S.No.70 of 2015 against the original defendant R.Barathalvar Naidu for the relief of declaration and other consequential relief. However, both original plaintiff and defendant died and their legal heirs were impleaded. The Revision Petitioner is the legal heir of original defendant and she is aged about 73 years old. Before the trial court, the original defendant filed an application to recall D.W.2 and the same was dismissed. Against the dismissal order, he filed a review petition and the same was dismissed for default. While so, the original defendant died. Subsequently, the Revision



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Petitioner filed a petition in I.A.No.12 of 2022 to restore I.A.No.2 of 2020.

The said application was dismissed on 15.02.2022. However, on seeing the contentions of Presiding Officer in the said order, she wanted to transfer the case. Hence, she filed a Tr.O.P.No. 331 of 2022, but the same was dismissed by the learned Principal District Judge stating that the parties are not entitled to conduct the suit on their own whims and fancies. So, without considering her submissions on merit, the said Transfer O.P. was dismissed. Against which, she filed a Review Petition stating that there is an error on the face of record. But, before numbering the said petition, on hearing her submissions, the same was dismissed by the trial judge stating that the order was passed in Transfer Original Petition on merits and there is no such typographical error as claimed by the petitioner. Challenging the said findings, the petitioner preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioner would submit that one more opportunity is to be given to putforth her submissions before the trial court. Hence, he prayed this court to issue a direction to the trial court to take the review petition on file.



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5. Considering the facts and circumstances of the case and also the fact that the Revision Petitioner is aged about more than 75 years old, she appeared before the trial court and she wanted to submit her objections, so, to give one more opportunity, the trial judge is directed to take the review petition on file and to dispose the same on merit within a period of four weeks from the date of receipt of copy of this order. Accordingly, this Civil Revision Petition is disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

30.10.2023

Index : Yes/No
Speaking Order : Yes/No
rpp

N.B. : Issue order copy on 31.10.2023

To

Principal District Judge,
Thiruvallur.



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T.V.THAMILSELVI, J.

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