



CRP(MD).No.447 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No.447 of 2023

Meenakshi Sundaram .. Petitioner/5th Respondent/5th Plaintiff

Vs.

1.Umar John ... 1st Respondent/Petitioner/Defendant
2.S. Murugan
3.S.Ganesan (died)
4.Girija
5.Karuppasamy
6.Selvaraj ... Respondents 2 to 6/Respondents 1 to 4
6 /Plaintiffs 1 to 4 & 6

PRAYER : Revision Petition filed under Section 115 of the Code of Civil Procedure, to call for the records relating to the fair and decretal order made in I.A.No.8 of 2022 in O.S.No.344 of 2016 on the file of the Additional District Munsif, Tirunelveli, dated 09.11.2022 and consequential judgment and decree made in O.S.No.344 of 2016 dated 09.11.2022 to set aside the same.

For Petitioner : Mr.V.Sasikumar

ORDER

The fifth plaintiff in a suit for permanent injunction is the revision petitioner herein.



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2. The defendant in the said suit has filed I.A.No.8 of 2022 to transfer the said suit to Waqf Tribunal, Chennai, on the ground that the property in dispute is the Waqf property. The learned trial Judge after relying upon certain judgments in the previous suit has arrived at finding that the property in dispute is the Waqf property and he has returned the plaint so as to re-present the same before the Walk Tribunal, Chennai. This order is under challenge in the revision petition.

3. The order passed by the learned trial judge in I.A.No.8 of 2022 is an order under Order 7 Rule 10 of the Code of Civil Procedure returning the plaint to be re-presented before the proper forum. Under order 43 Rule 1 (a) it is an appealable order. Therefore, the present revision petition is not maintainable. Accordingly, the Civil Revision Petition is disposed of with liberty to the revision petitioner to file an appeal before the appropriate forum. The time spent by the petitioner between 06.02.2023 and 22.02.2023 shall stand excluded. Registry is directed to return the original impugned order to the revision petitioner.

22.02.2023

Index : Yes / No
Internet : Yes / No
Rmk



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To
The Additional District Munsif, Tirunelveli.

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R.VIJAYAKUMAR ,J.,

Rmk

Order made in
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Dated:
22.02.2023