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CRP. Nos.2756 & 2818 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:09.07.2025

Pronounced on:22.08.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. Nos.2756 & 2818 of 2025
and CMP. Nos.15610 & 15960 of 2025**

CRP. No.2756 of 2025

V.Prasanna

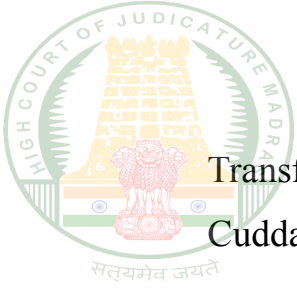
Petitioner

Vs

- 1.Senthil Educational Trust,
rep. by its Managing Trustee,
Dr.E.Senthil Anand
- 2.Dr.E.Senthil Anand
- 3.Dr.E.Chandravadivu
- 4.Dr.N.Elavarasan
- 5.D.Thangarasu
- 6.K.Vaidyanathan
- 7.P.Ganesan
- 8.Selvi S.Dhivya
- 9.R.Kavitha
- 10.V.Parthib
- 11.M.Vinoth Kumar
- 12.S.Kalairasan
- 13.K.Rahulraj
- 14.J.Mohan Kumar

Respondents

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 19.06.2025 passed in



Transfer O.P. No.39 of 2025 on the file of Principal District Judge,
Cuddalore District, Cuddalore.

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CRP. No.2818 of 2025

Selvi S.Dhivya

Petitioner

Vs

- 1.Senthil Educational Trust,
rep. by its Managing Trustee,
Dr.E.Senthil Anand
- 2.Dr.E.Senthil Anand
- 3.Dr.E.Chandravadivu
- 4.Dr.N.Elavarasan
- 5.D.Thangarasu
- 6.K.Vaidyanathan
- 7.P.Ganesan
- 8.V.Prasanna
- 9.R.Kavitha
- 10.V.Parthib
- 11.M.Vinoth Kumar
- 12.S.Kalairasan
- 13.K.Rahulraj
- 14.J.Mohan Kumar

Respondents

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 07.03.2025 passed in I.A. No.01 of 2024 in O.S. No.58 of 2020 on the file of the Additional Sub Court at Virudhachalam, Cuddalore.

For Petitioners : Mr.V.Chandrasekaran in both CRPs



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CRP. Nos.2756 & 2818 of 2025



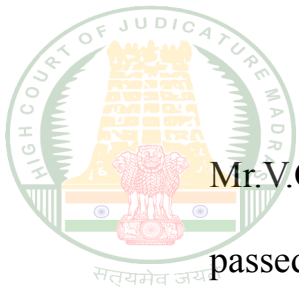
For Respondents : Mr.Kanamani Annamalai
in CRP. No.2818 of 2025
Mr.K.Amardeep
for M/s.Tamizh Law Firm
for R1 to R3 in CRP. No.2756 of 2025

COMMON ORDER

These revisions are filed challenging the dismissal of Transfer O.P. No.39 of 2025 on the file of the learned Principal District Judge, Cuddalore (CRP. No.2756 of 2025) and challenging the order in I.A. No.1 of 2024, in and by which, the request of the 6th defendant to frame a preliminary issue with regard to the effect of failure to obtain leave under Section 92 of the Code of Civil Procedure, 1908, (CRP. No.2818 of 2025) has been negatived.

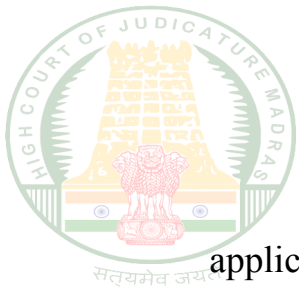
2. I have heard Mr.V.Chandrasekaran, learned counsel for the revision petitioner in both CRPs and Mr.Kanmani Annamalai, learned counsel for the respondents in CRP. No.2818 of 2025 and Mr.K.Amardeep, learned counsel for M/s.Tamizh Law Firm, for respondents 1 to 3 in CRP. No.2756 of 2025.

3. The learned counsel for the revision petitioner



Mr.V.Chandrasekaran, taking me through the plaint and also the orders passed in the Application to reject the plaint, up to the Hon'ble Supreme Court, would specifically refer to the leave granted by the Hon'ble Supreme Court to the revision petitioner to agitate all contentions available before the Trial Court at the appropriate stage. He would therefore state that the fulcrum of the defence of the revision petitioners itself being the failure to obtain leave under Section 92 CPC being fatal to the case of the plaintiffs, the Trial Court has erroneously, without noticing the same, has dismissed the Application to frame a preliminary issue in that regard.

4. In fact, a further memo 21.07.2025 was filed by the learned counsel for the petitioner, after serving a copy of the same on the learned counsel for the respondents. In the said memo, it is stated that the suit came up for hearing on 19.07.2025 and when it was informed by the learned counsel for the revision petitioner by filing a memo that orders have been reserved in the CRP, the learned Judge has commented that he will not wait till orders are pronounced and that if the matter is not argued, the Application in I.A. No.6 of 2025 would be decided.



5. He would also refer to the affidavit filed in support of the stay application in this revision and to the comments that have been passed by the learned Presiding Officer and he would therefore contend that the revision petitioner apprehends that he would not get fair hearing before the said Court. In this regard, he would also take me through the order of the learned Principal District Judge, in and whereby the request for transfer was dismissed and referring to the same, he would pray for the suit to be transferred to any other Court since after all much water has flown, the Trial Court may only be prejudiced against the revision petitioner.

6. Per contra, the learned counsel for the respondents would contend that the learned Principal District Judge has rightly turned down the request for transfer. They would also point out that the present petitioner never entered appearance in the suit and chose to remain exparte and only after lapse of three years, he chose to file an Application to set aside the exparte decree, along with the written statement. They would also contend that the revision petitioner has also instigated the second defendant to raise the plea of non obtaining leave under Section 92 of CPC. They would also refer to the additional typed-set of papers to fortify their contentions that the transfer OP itself is an exercise



exhibiting malafides. Referring to Tr.O.P. 97 of 2021 filed by the second defendant in the suit, the respondents would submit that the said Transfer OP was dismissed on 12.01.2023 as withdrawn. Therefore, the contentions of the respondents is that the revision petitioner, colluding with the second defendant, is only attempting to protract the proceedings by hook or crook and that the present Transfer O.P was only another tool towards achieving their object of delay in the matter as long as possible.

7. Insofar as the other revision with regard to the issue of Section 92 of CPC being raised as a preliminary issue, the learned counsel for the respondents would contend that the suit is not in the nature of a proceedings which would fall under the scope of Section 92 of CPC and the very same issue has been elaborately tested in the earlier round of litigation when an Application was taken out for rejection of the plaint at the instance of the third defendant, on the very same ground of failure to obtain leave under Section 92 of CPC.

8. I have carefully considered the submissions advanced by the learned counsel on either side.

9. With regard to the dismissal of the Transfer OP, no doubt the



revision petitioner has chosen to make some allegations and as set out certain apprehensions for seeking transfer. The Principal District Judge who is in-charge of the immediate administration of the Trial Court concerned, in and by the impugned order dated 19.06.2025 has found that on the complaint of second defendant, a Vigilance enquiry has been conducted by this Court and it was found that there is no truth in the allegations and all further action was dropped.

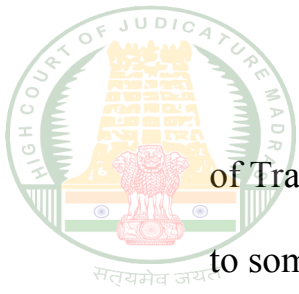
10. The learned Judge has also noted that the then Sub Judge was also transferred and earlier Tr.O.P No.97 of 2021 was not pursued further by the second defendant. The learned Judge has also noted that only after giving more than reasonable opportunities, the petitioner herein was set exparte. The Trial Court has also noticed that even in the written statement filed by the revision petitioner, he has admitted that he has resigned from the Trust way back on 05.02.2018 and therefore, observed that having pleaded so, the petitioner cannot have any subsisting interest and the attempt to seek transfer appeared only to be to protract the proceeding and stall the activities of the Trust. The learned Judge has also taken note of the fact that this Court in CRP. No.1134 of 2023 has directed expeditious disposal of the suit. The learned Judge has also held



that ordering transfer when allegations are sought to be made against Judicial Officers, would cause an unjustifiable stigma on the Court and there is no necessity or valid grounds made out to transfer the suit.

11. Having gone through the allegations made against the Presiding Officer seeking transfer and also the order of the learned Principal District Judge and considering the arguments of the learned counsel on either side, I find no merits in the grounds that are raised in the present revision, challenging the dismissal of the Transfer O.P.

12. In *Noushad Flourish Vs Akhila and Another*, reported in (2024) SCC Online Kerala 6248, the Kerala High Court held that a complaint filed by the Advocate representing a party before the Registrar General cannot be sole basis for transfer of the case and if reliance is placed on such a complaint alone, then every case can be transferred at the instance of an Advocate who may feel that the Court is not accepting his proposition. The Kerala High Court held that in the absence of any substantial indicator of bias, the claim for transfer ought not to be entertained. Applying the ratio, the facts of the present case, I find that the grounds that are set out in the present revision, challenging the dismissal



of Transfer Application are not meriting acceptance for transfer of the suit to some other Court.

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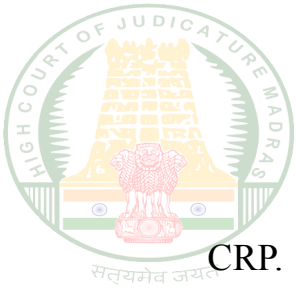
13. No doubt, the learned counsel for the petitioner Mr.V.Chandrasekaran would state that subsequently, the Registry of this Court has called for sworn affidavit from the revision petitioner. He would therefore state that the enquiry is pending and this Court has found prima facie material in the allegations that have been made against the Presiding Officer. Unless there is any final decision that has been taken on the complaint of the revision petitioner, merely lodging of a complaint cannot be taken note of, for accepting the request of transfer of the suit, based on the allegations that formed basis of the complaint itself.

14. As regards the argument of Mr.V.Chandrasekaran, learned counsel for the petitioner that even after disposal of I.A, the comments that were passed by the learned Judge being unsavory and unwarranted and that CCTV footage can also be verified, I do not find it necessary to embark upon any such roving enquiry, for the simple reason that in view of the specific stand taken by the petitioner that he has already resigned from the Trust and looking at the trajectory of the case itself, some of the



other defendants having sought for rejection of the plaint and taking up the matter up to the Hon'ble Supreme Court and now the revision petitioner attempting to canvass the very same grounds in the suit, all go to show that the defendants are going all out to ensure that the plaintiff does not get the relief sought for in the suit. Merely because orders passed are against the defendants and when such orders have also been challenged legally before the Higher Courts and that too unsuccessfully, it cannot be presumed that there is a bias exhibited by the Presiding Officer in favour of the plaintiffs.

15. Even with regard to the additional memo filed by learned counsel for the revision petitioner, after orders have been reserved, I do not find that the learned Judge has acted in any great haste. Though he may have refused an adjournment in the morning, ultimately he acted on the memo filed by the learned counsel for the revision petitioner, the learned Judge has granted time on 25.07.2025. In the light of the above, the apprehensions raised by the revision petitioner are not germane and sufficient or strong enough to transfer the suit from the said Court to some other Court.



16. In view of the above, I do not find any merit in the revision in CRP. No.2756 of 2025 challenging the dismissal of the Transfer OP No.39 of 2025.

17. Coming to the other revision in CRP. No.2818 of 2025, as contended by Mr.V.Chandrasekaran, it is seen that the issues that have been framed by the Trial Court are the issues that have been suggested by the plaintiffs. The Hon'ble Supreme Court by order dated 03.11.2023 has permitted the Special Leave Petitioner viz., the third defendant to raise all issues in the suit. The revision petitioner initially never chose to contest the suit and were ex-parte as early as on 13.02.2023. After a lapse of two years, the revision petitioner took out an Application in I.A. No.4 of 2025 to set aside the exparte order by filing I.A. No. 4 of 2025. Written statement was filed along with said application and the exparte order was set aside on 03.02.2025 and the written statement was taken on file.

18. In the said written statement, the revision petitioner has specifically taken the plea that the first plaintiff is a Public Trust and it was mandatory for obtaining leave of the Court to file a suit under Section 92 of CPC. Despite the issues being framed, after the said written



statement came to be filed, the learned Trial Judge has not framed any issue with regard to the said contentions of the revision petitioner.

However considering the trajectory of the suit, the various Applications filed by the other defendants also raising this issue, I am inclined to allow the revision with a directions to the Trial Court to frame the issue with regard to whether non obtaining of leave under Section 92 of CPC would be fatal to the plaintiffs. At the same time, it is not necessary to try this issue as a preliminary issue and the same can be decided alongwith the other issues in the suit. The Trial Court shall recast the issues and thereafter proceed with the trial.

19. In fine, CRP. No.2756 of 2025 is dismissed and CRP. No.2818 of 2025 is allowed with the above directions. Connected Miscellaneous Petitions are also closed. No costs.

22.08.2025

rkp

Index : Yes / No

Internet : Yes / No

To:

1. The Principal District Judge,
Cuddalore.
2. The Additional Sub Judge at Virudhachalam,
Cuddalore.



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CRP. Nos.2756 & 2818 of 2025



P.B.BALAJI, J.,

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Pre-delivery order in
CRP. Nos.2756 & 2818 of 2025
and CMP. Nos.15610 & 15960 of 2025



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