

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 07.12.2015****CORAM:****THE HONOURABLE MR.JUSTICE T.MATHIVANAN****C.R.P(MD)No.2620 of 2015(NPD) and
M.P. (MD) .No.1 of 2015**

Sami Arul Educational Trust,
Rep.by its Managing Trustee LBS.Yadav

... Petitioner

Vs.

S.Peter

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 24.11.2015 as illegal and against the order of status quo dated 14.08.2015 passed in S.L.P.No.22198 of 2015 on the file of the Hon'ble Supreme Court and consequently to direct the learned Principal Sub-Court, Thanjavur to take the Unnumbered execution application of 2015 in E.P.No.50 of 2015 in O.S.No.290 of 2010 on its file and to dispose it on merits in accordance with law.

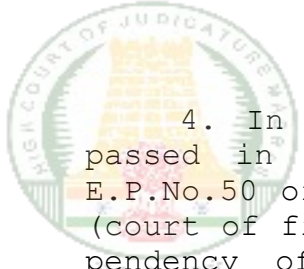
For Petitioner : Mr.V.Balaji

ORDER

This revision is filed under Article 227 of the Constitution of India, as against the order of dismissal dated 24.11.2015 and made in an unnumbered E.A. of 2015 in E.P.No.50 of 2015 in O.S.No.290 of 2010, seeking adjournment, citing the reason that the status quo granted by the Hon'ble Apex Court dated 14.10.2014 in S.L.P.No.22198 of 2015 is still in force up to 05.12.2015.

2. The revision petitioner is the defendant in the suit in O.S.No.290 of 2010. Apparently the suit in O.S.No.290 of 2010 was filed by the respondent herein, who is the plaintiff, seeking the relief of declaration and permanent injunction. That suit was originally dismissed. Then an appeal in A.S.70 of 2012 was filed by the respondent/plaintiff before the learned Principal Subordinate Judge, Thanjavur. That appeal was allowed on 20.04.2014. Against which the revision petitioner/defendant had filed the second appeal in S.A.No.695 of 2014 on the file of this Court and the same was dismissed on 16.04.2015. Challenging the judgment dated 16.04.2015 and made in S.A.No.692 of 2014, the revision petitioner has preferred a Special Leave Petition before the Hon'ble Apex Court in S.L.P.No.22198 of 2015.

3. It is also manifested from the records that the Special Leave Petition came up before the Hon'ble Apex Court for hearing on 14.08.2015. On that day, while ordering notice to the respondents returnable by four weeks, the Hon'ble Apex Court has granted status quo as of that day i.e., as on 14.08.2015. That shall be maintained by the parties.



4. In the meanwhile, the respondent/plaintiff based on the decree passed in the Second Appeal, has filed the execution petition in E.P.No.50 of 2015 on the file of the learned Principal Subordinate Judge (court of first instance) for taking delivery of the property. During the pendency of the Special Leave Petition, the revision petitioner on 24.11.2015, has filed a memorandum informing the executing Court that the Hon'ble Apex Court had granted an order of status quo on 14.08.2015, which is still in force as on that day i.e., as on 24.11.2015.

5. The learned counsel Mr.V.Balaji has also submitted that on the same day, an application under Order 17 Rule 1 of the Code of Civil Procedure, was filed for adjournment, citing the fact of granting the order of status quo by the Hon'ble Supreme Court. That petition was immediately dismissed by the executing Court saying that "since the Execution Petition is pending from 20.07.2015 and posted on NFA from 22.09.2015. Hence this petition is dismissed".

6. It is significant to note here that as it is submitted by Mr.V.Balaji, the order of status quo is still in force up to 15.12.2015. When the order of status quo is in force, if any order is passed by the Court below, that is absolutely in total negation of the order of status quo granted by the Hon'ble Apex Court and the Judicial Officer himself would squarely come, with in the amplitude of Contempt of Courts Act, 1971, as he violates the order of the Hon'ble Apex Court. Therefore, the order is absolutely not sustainable and liable to be set aside.

7. Hence, the intervention of this Court in Article 227 of the Constitution of India is absolutely necessary to set at right the wrong committed by the Court below. Accordingly, this revision petition is disposed of by setting aside the order of the Court below in the unnumbered E.A. of 2015 in E.P.No.50 of 2015 in O.S.No.290 of 2015 and the petition for adjournment is remitted back to the Court below with the direction to number the same and dispose it on merits as the status quo granted by the Hon'ble Apex Court is still in force up to 15.12.2015. However, there shall be no order as to costs. Connected M.P.(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

Note: Issue order copy on 08.12.2015

To
The Principal Subordinate Judge, Thanjavur.

+one cc to Mr.V.Balaji, Advocate in SR.NO.69814

C.R.P (MD) No.2620 of 2015
and

M.P. (MD) .No.1 of 2015
07.12.2015