

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2016

CORAM

THE HONOURABLE THIRU JUSTICE **M. DURAISWAMY**

C.R.P.(NPD)No.3247 of 2016
and
CMP No.16456 of 2016

T.P. Gopalakrishnan

... Petitioner

vs

1.M. Hariharan
2.Mrs.Baby
3.Mohan
4.Mrs.Kala

... Respondents

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decreetal order passed in I.A.No.48 of 2015 in CMA No.9 of 2015 dated 15.09.2016

For Petitioner : Mr.T. Ramachandran

ORDER

Challenging the order passed in the application in I.A.No.48 of 2015 in C.M.A.No.9 of 2015 on the file of Subordinate Court, Tambaram, the third party claimant has filed the above Civil Revision Petition.

2. Pursuant to the decree passed in the suit in O.S.No.392 of 2007, the plaintiff filed an Execution Petition in E.P.No.49 of 2010. In the Execution Petition, the Revision Petitioner filed an application in E.A.No.204 of 2012 under Order 21 Rule 97 of the Civil Procedure Code. After contest, the Executing Court dismissed the application in E.A.No.204 of 2012, against which, the revision petitioner filed an appeal in C.M.A.No.9 of 2015 on the file of Subordinate Court, Tambaram.

3. In the appeal, filed by the revision petitioner, he filed an application in I.A.No.48 of 2015 to stay all further proceedings in the application in E.A.No.204 of 2012 in E.P.No.49 of 2010.

4. The lower Appellate Court dismissed the application finding that the prayer sought for by the revision petitioner is unwarranted and is not maintainable. When the application filed under Order 21 Rule 97 of the Civil Procedure Code in the application in E.A.No.204 of 2012 was dismissed by the Executing Court, no useful purpose will be attained by the revision petitioner in getting a stay of the said order. When the application in E.A.No.204 of 2012, filed by the revision

petitioner, was dismissed on merits, even if stay is granted, the petitioner will not be benefited in getting the order of interim stay.

5. Learned counsel, appearing for the petitioner, submitted that liberty may be given to the revision petitioner to file appropriate application, seeking for stay of the Execution Petition in E.P.No.49 of 2010.

6. In view of the submissions made by the learned counsel, appearing for the petitioner, I do not find any error or irregularity passed by the Executing Court. The Civil Revision Petition is devoid of merits and the same is dismissed. It is open to the petitioner to file appropriate application before the Executing Court, seeking for stay of the Execution Petition, in accordance with law. No costs. Consequently, connected CMP is closed.

17-10-2016

sr

Index:no
website:yes

Note: Issue Order copy Today

M. DURAISWAMY,J.,

sr

To

The Subordinate Court, Tambaram

CRP(NPD)No.3247 of 2016

17-10-2016