

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.3741 of 2016 &

C.M.P.No.19026 of 2016

1. Vajjiravelu @ Anthony

2. V.Joseph

3. Andrews

4. V.Savarimuthu

... Petitioners

..VS...

Jayakumar

..Respondent

Civil Revision Petition filed under Section 227 of the Constitution of India seeking for a direction from this Court to dispose of the A.S.No.26 of 2012 on the file of the Sub Court, Tambaram, within a stipulated period.

For Petitioners : Mr.A.K.Kumarasamy for  
Mr.Ma.P.Thangavel

ORDER

The defendants in O.S.No.570 of 2005 on the file of the Additional District Munsif Court, Alandur, have filed the above Civil Revision to direct the Subordinate Court, Tambaram, to dispose of the appeal in A.S.No.26 of 2012 filed as against the Judgment and decree passed in O.S.No.570 of 2005.

2. The respondent/plaintiff has filed O.S.No.570 of 2005 for declaration and for recovery of possession. By Judgment and decree dated 25.11.2011, the trial Court decreed the suit, against which, the defendants preferred an appeal in A.S.No.26 of 2012 on the file of the Subordinate Court, Tambaram. Though the appeal was filed in the year 2012, the lower Appellate Court has not disposed of the same, stating that the Registry of the Sub Court has not received the records from the Additional District Munsif Court, Alandur.

3. When the appeal was pending for more than four years, the appellate Court should have taken steps to call for the records in time and dispose of the appeal within a time frame.

4. Mr.A.K.Kumarasamy, learned counsel for the petitioners submitted that pursuant to the decree passed in O.S.No.570 of 2005, the respondent/plaintiff also filed an Execution Petition in E.P.No.35 of 2012 and the Executing Court has also ordered delivery. That apart, the learned counsel submitted that in the first appeal, the petitioners have filed a stay petition, however, the lower Appellate Court has not passed any orders in the stay petition.

5. In view of the submissions made by the learned counsel for the petitioners, taking into consideration the limited prayer sought for in the Civil Revision Petition, without expressing any opinion with regard to the merits of the case, I direct the Subordinate Judge, Tambaram, to dispose of the appeal in A.S.No.26 of 2012, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

6. The Additional District Munsif, Alandur, is directed to despatch the records in O.S.No.570 of 2005 to the Sub Court, Tambaram, within a period of one week from the date of receipt of a copy of this order. The Sub Judge, Tambaram, is also directed to dispose of the stay petition filed by the petitioners in A.S.No.26 of 2012, on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order.

With these observations, the Civil Revision Petition is disposed of. No costs. Connected miscellaneous petition is closed.

28.11.2016

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**Note:**

(i) Issue on 29.11.2016

(ii) Registry is directed to sent a copy of this order to the Subordinate Judge, Tambaram as well as the Additional District Munsif, Alandur.

M. DURAISWAMY,J.,

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