

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.10.2017

Coram

THE HON'BLE MR. JUSTICE M.DURAISWAMY

C.M.A.No.501 of 2015 &

M.P.No.1 of 2015

1.S.Palanisamy
2.K.Ramakrishnan ... Appellants

v.

1.P.Sundaram
2.Vasatha Kumar ... Respondents
(the 2nd Respondent may be dispensed with since he was set
exparte before the courts below)

Civil Miscellaneous Appeal filed under order 43 Rule 1
of CPC against the judgment and decree dated 21.01.2008 passed
in C.M.A.No.42 of 2006 on the file of I Additional District
Court, Erode remanding the case by allowing the appeal against
the order dated 01.03.2005 passed in E.A.No.155 of 2004 in E.P.
No.270 of 2003 in O.S.No.480 of 2000 on the file of I Additional
Sub Court, Erode and set aside the same.

For Appellants : Mr.V.Raghavachari

For Respondents : Mr.S.Kaithamalai Kumaran - for R1

Mr.M.Guruprasad - for R2

J U D G M E N T

Challenging the judgment and decree passed in C.M.A.No.42
of 2006, on the file of I Additional District Court, Erode, the
appellants, who are the third parties to the proceedings, have
filed the above Civil Miscellaneous Appeal.

2.The application in E.A.No.155 of 2004 was filed by the
appellants under Order XXI, Rule 58 of CPC and the Executing
Court had allowed the application on 01.03.2005. Challenging
the same, the 1st respondent has filed the appeal in C.M.A.No.42
of 2006. The Lower Appellate Court, by judgment and decree
dated 21.01.2008, set aside the order passed by the Executing
Court and remanded the matter back to the Executing Court for
fresh consideration. Challenging the order passed in

C.M.A.No.42 of 2006, the appellants have filed the present Civil Miscellaneous Appeal.

3. Now, it is brought to the notice of this court by Mr.S.Kaithamalai Kumaran, learned counsel appearing for the 1st respondent that pursuant to the judgment and decree passed in C.M.A.No.42 of 2006, the Executing Court had taken up the application in E.A.No.155 of 2004 in E.P.No.270 of 203 and dismissed the application by its order dated 24.02.2016. Further, the learned counsel submitted that challenging the same, the appellants have filed the appeal in C.M.A.No.18 of 2016 on the file of II Additional District Court, Erode.

4. In view of the submissions made by the learned counsel appearing for the 1st respondent, I do not find any reason to keep the Civil Miscellaneous Appeal pending for the reason that the judgment and decree passed in C.M.A.No.42 of 2006 was already complied with by the Executing Court. Hence, the Civil Miscellaneous Appeal is dismissed as infructuous. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

1. The I Additional District Court
Erode.
2. The I Additional Sub Court
Erode.
3. The Section Officer/ Record Keeper
VR Section, High Court, Madras.

+1 CC to Mr. V.Raghavachari Advocate SR.NO.73590/17

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C.M.A.No.501 of 2015 &
M.P.No.1 of 2015

NRJK(CO)
VC (01/11/2017)