

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE **PUSHPA SATHYANARAYANA**

C.R.P.P.D.No.71 of 2016
and C.M.P.No.376 of 2016

1. Agavalli
2. Siva

.. Petitioners

-Vs.-

Manikam

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 06.10.2015 passed by the learned I Additional District Munsif Court, Tindivanam in I.A.No.868 of 2014 in O.S.No.310 of 2007.

For petitioners ... Mr.V.Raghavachari

For Respondent ... Mr.G.Mohammed Aseef

O R D E R

Heard both sides.

2. The defendants in O.S.No.310 of 2007 are the revision petitioners.

3. The brief facts of the case would run thus:

Originally, the petitioners herein filed O.S.No.424 of 2007 seeking partition. The said suit was dismissed. Aggrieved by the same, they have preferred an appeal in A.S.No.35 of 2014 learned Principal Subordinate Judge, Tindivanam. Whereas the respondent herein filed O.S.No.310 of 2007 seeking declaration and injunction. Since the suit scheduled property and the parties in both the suits are one and the same, pending the suit filed by the respondent herein, the petitioners filed an application under Section 10 of the Code of Civil Procedure in I.A.No.868 of 2014 before the Additional District Munsif court, Tindivanam seeking stay of all further proceedings in O.S.No.310 of 2007, till the disposal of the appeal filed by them in A.S.No.35 of 2014 as against the dismissal of the suit filed by them in O.S.No.424 of 2007 for partition. The said application was dismissed by the Court below. Aggrieved by the same, the present revision is filed.

4. Today, when the matter is taken up for hearing, the learned counsel for the petitioners submitted that A.S.No.35 of 2014 is in the

stage of arguments and O.S.No.310 of 2007 is ready for trial. Therefore, it would be suffice, if a direction is given to the learned Principal Subordinate Judge, Tindivanam to dispose of the first appeal, pending on its file, within a time frame and till such time the appeal is disposed of, the proceedings in the suit in O.S.No.310 of 2007 pending on the file of the learned Additional District Munsif, Tindivanam, may be stayed.

5. In view of the above submission, without going into the merits of the matter, this Civil Revision Petition is disposed of with the following direction:

(i) The learned Principal Subordinate Judge, Tindivanam is directed to complete the hearing in AS No.35 of 2014 and dispose of the same on merits and in accordance with law on or before 28.02.2017.

(ii) Till the disposal of A.S.No.35 of 2014, the proceedings in the suit in O.S.No.310 of 2007 pending on the file of the learned Additional District Munsif, Tindivanam is stayed.

(iii) It is made clear that the parties shall co-operate for the disposal of the appeal in A.S.No.35 of 2014 within the time frame fixed by this Court and if the same is not disposed of within such time, the stay granted in O.S.No.310 of 2007 would automatically stand vacated.

6. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

10.01.2017

vj2

To

The I Additional District Munsif Court,
Tindivanam

PUSHPA SATHYANARAYANA.J

vj2

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