



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP (NPD) (MD).No.195 of 2017 and
CMP(MD).No.891 of 2017

1.Ranjithkumar
2.G.Gopinath
3.G.Manojkumar

: Petitioners/Respondents/Defendants

Vs.

Kailasam Pillai (died)
K.S.Ravichandran

: Respondents/Petitioners/Plaintiffs

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order passed in E.P.No.24 of 2015 in O.S.No.95 of 2014 dated 15.11.2016 on the file of the District Munsif Court, Musiri.

For Petitioner : Mr.G.S. Asok Adhithyan

ORDER

This Civil Revision Petition is filed to set aside the order passed in E.P.No.24 of 2015 in O.S.No.95 of 2014 dated 15.11.2016 on the file of the District Munsif Court, Musiri.

2. The petitioners are defendants in O.S.No.95 of 2014 on the file of the District Munsif Court, Musiri. The respondent is the plaintiff. The respondent along with one Kailasam Pillai filed O.S.No.95 of 2014. A decree was passed on 15.01.2015, directing the petitioners to receive a sum of Rs.20,000/- from the respondent and deliver the possession within a period of two months to the respondent. The respondent sent notice through his Advocate, calling upon the petitioner to specify the date and time and place for payment of Rs.20,000/- to the petitioners. The petitioners did not send any reply. Thereafter, the respondent filed E.P.No.24 of 2015, to execute the decree. The petitioners filed counter stating that, first plaintiff died and his legal heirs are not impleaded or not made as party in the execution proceedings. The petitioners filed appeal suit in A.S.No.31 of 2015 on the file of Sub Court, Thiruchirappalli and subsequently,



if appeal filed by the petitioners is allowed, the petitioners will be put to irreparable loss and hardship. Further, the petitioners submitted that the respondent has not paid Rs.20,000/- either by money order or deposit the amount into Court. The learned Judge considering the notice issued by the respondent through Advocate, expressing his willingness to pay Rs.20,000/- as well is readiness, rejected the contention of the petitioners and allowed the Execution Petition.

3. Against that order, the present Civil Revision Petition has been filed.

4. The learned counsel appearing for the petitioners reiterated the averments made in the counter affidavit filed in Execution Petition and in the grounds of revision.

5. I have heard the learned counsel appearing for the petitioners and perused the materials available on record.

6. The contention of the learned counsel for the petitioners is that they have filed an appeal in A.S.No.31 of 2015, therefore hearing of Execution Petition should have been deferred till the disposal of the first appeal. Further according to the learned counsel for the petitioners, the respondent did not comply with the condition imposed in the decree by paying Rs.20,000/- to the petitioners. Both the contentions of the petitioners are untenable and the filing of an appeal will not amount to stay of the decree against which appeal is filed.

7. From the records it is seen that the respondent offered to pay Rs.20,000/- through his Advocate, during the pendency of the Execution Petition, as per the condition imposed in the decree, wherein it has been stated that petitioners have to receive Rs.20,000/- from the respondent and deliver the possession within a period of two months.

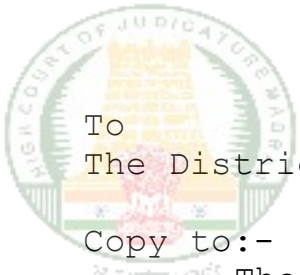
8. In the circumstances, the learned Judge considered all the materials on record in proper perspective and has given cogent and valid reasons for allowing the E.P.No.24 of 2015 in O.S.No.95 of 2014 dated 15.11.2016 on the file of the District Munsif Court, Musiri. Further, the learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

9. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/



To
The District Munsif , Musiri.

Copy to:-

The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.M.Subash Babu, Advocate Sr.No. 5054

trp

AE/GT/07.03.2017/3P/4C

CRP(NPD) (MD) .No.195 of 2017 and
CMP(MD) .No.891 of 2017
31.01.2017