



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.11.2017

CORAM:

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

WEB COPY

C.R.P (MD) No.1980 of 2017 and
CMP (MD) .No.10002 of 2017

V. Senthil Athiban

.. Petitioner

Vs.

P. Venkateswaran

... Respondent

PRAYER: Civil Revision Petition is filed, under Section 115 of CPC against the petition and order dated 29.04.2016 passed in E.A.No.112 of 2016 in E.P.No.26 of 2015 in O.S.No.33 of 2013 on the file of the II Additional District Judge, Thoothukudi.

For Petitioner	:	Mr. G.Prabhu Rajadurai
For Respondent	:	Mr. A.Thiruvadikumar

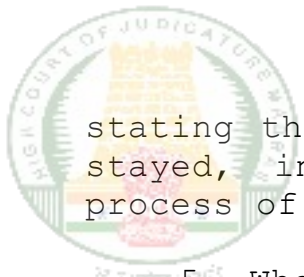
ORDER

This Civil Revision Petition has been filed against the order dated 29.04.2016 passed in E.A.No.112 of 2016 in E.P.No.26 of 2015 in O.S.No.33 of 2013 on the file of learned II Additional District Judge, Thoothukudi.

2. The learned counsel appearing for the petitioner states that the learned II Additional District Judge, Thoothukudi, ought not to have dismissed the stay application in E.A.No.112 of 2016 in E.P.No.26 of 2015 in O.S.No.33 of 2013, since the appeal is yet to be filed. He would further state that the dispute remains to resolve in the appeal is only the quantum of amount received from the respondent. He would further contend that it is not necessary to resolve the petition in a hurried manner and sufficient time would be given to the petitioner to decide the disputed amount. As such, the order of the learned Trial Judge in dismissing the application is liable to be dismissed.

3. Heard the learned counsel appearing for the respondent also.

4. A perusal of the records would show that the decree has been passed in O.S.No.33 of 2013 on 13.02.2015 and the Execution Petition in E.P.No.26 of 2015 has been filed on 16.07.2015 and a counter was filed in the said Execution Petition on 04.02.2016. In the Revision Petition, the petitioner has filed an application in E.A.No.112 of 2016 for stay of Execution Petition



stating that till the appeal is filed, the proceedings has to be stayed, in my considered opinion, which is totally abuse of process of Court.

5. When the matter came up for hearing before this Court on 07.11.2017, this Court has granted interim stay on condition that the petitioner shall pay a sum of Rs.5,00,000/- to the respondent within a period of one week from the date of that order, failing which the interim stay granted shall stand vacated automatically. Today, the learned counsel appearing for the petitioner submitted that the order of this Court has not been complied with by the petitioner.

6. From the affidavit of the petition filed by the petitioner in E.A.No.112 of 2016, it is seen that the petitioner has filed this petition only to protract the proceedings. In such circumstances, I am of the view that the learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality in the said order warranting interference by this Court.

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

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

The II Additional District Judge, Thoothukudi.

+1cc to Mr.G.PRABHU RAJADURAI, Advocate, SR. 88900

+1cc to Mr.A.THIRUVADIKUMAR, Advocate, SR. 88567

TRP

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