



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2017

CORAM :

THE HONOURABLE DR.JUSTICE **G. JAYACHANDRAN**

C.R.P. (MD) .No.757 of 2017

WEB COPY

1. K.S.M.Jainulabudeen @ Haja Mohaideen  
2. K.S.M.Fathima Nachi ... Petitioners  
Vs.

1. K.S.M.Mohamed Hussain ... 1<sup>st</sup> Respondent  
2. S.Gobidas ... 2<sup>nd</sup> Respondent

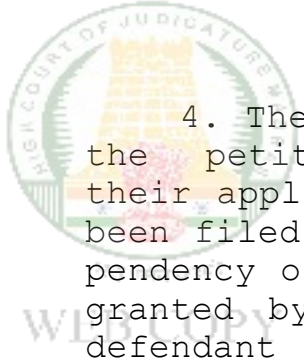
**Prayer:** Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the Order dated 24.03.2017 refusing or entertaining the contempt application in I.A.No. of 2017 i.e., I.A.SR.No.690 of 2017 in I.A.No.17 of 1998 in O.S.No.4 of 1998 on the file of Sub Court, Ramanathauram and consequently take the I.A. On file and dispose the same on merits and render justice.

For Petitioner : Mr. V.Sitharanjandas

### ORDER

The revision petition is directed against the return of I.A.SR.No.690 of 2017 by the Subordinate Court, Ramanathapuram on the ground that this Court has already granted interim stay of all further proceedings in O.S.No.4 of 1998 in M.P(MD) No.2 of 2013 in CRP(MD) No.1114 of 2013, and therefore, the application cannot be entertained.

2. The Learned counsel appearing for the revision petitioners submitted that in a suit filed for partition, an Interlocutory Application was filed seeking to restrain the respondent from in any manner alienating the suit property till the disposal of the suit. The court granted interim stay in I.A.No.17 of 1998, dated 18.09.2003, restraining the seventh defendant by name K.S.M.Mohamed Hussain, from encumbering the suit property. While so, in the present Interlocutory Application, the plaintiffs allege that the seventh defendant who has been restrained from alienating the property by interim order has violated the order and therefore, contempt action must be taken against him for the breach of interim order. That application has been returned stating that the application for action against breach of interim order cannot be entertained due to the stay order granted by this court in M.P(MD) No.2 of 2013 in CRP(MD) No.1114 of 2013 dated 26.07.2013.



4. The stay order referred to by the court below, pertains to the petition filed by a 3<sup>rd</sup> parties to the proceedings. When their application to implead got dismissed, revision petition has been filed by those 3<sup>rd</sup> parties. From the records, it appears that pendency of CRP No.1114/2013 and stay of all further proceedings granted by the High Court does not give any right to the 7<sup>th</sup> defendant to alienate the property and does not preclude the parties to the proceedings to file any further proceedings in connection with O.S.No.4 of 1998. Therefore, the court below is directed to accept the Interlocutory Application filed by the plaintiff if it is in order and proceed further. For better understanding, it is made clear that Interlocutory Application filed for any breach of interim order is independent proceedings which has no bearing to the main case. It has been repeatedly held time and again by this Court that when interlocutory application filed under order 39 Rule 2(A) of CPC, the court shall deal with the same independently de hors of the result of the suit. Therefore, there is no legal impediment to the Court below to deal with the application filed under order 39 Rule 2(A) of Criminal Procedure Code

5. With the above said observation the revision petition is disposed of. The Registry is directed to return back the original application, if any to the revision petitioner forth with.

Sd/-  
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Sub Judge,  
Ramanathauram

+1cc to M/S.V.Sitharanjandas , Advocate SR.No.51622

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JM/JC/09.05.2017/2P/3C