

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (NPD) No.128 of 2018

and

CMP.No.691 of 2018

1.Rajendran
2.M.Murugan

.. Petitioners

Vs

Mohanambal

.. Respondent

PRAYER: This Civil Revision Petition is filed under Section 115 of the Code of the Civil Procedure, against the order dated 25.10.2017 made in I.A. No.150 of 2017 in C.M.A. No.12 of 2017 on the file of the Subordinate Judge, Kanchipuram.

For Petitioners :Mr.V.Lakshmi Narayanan

For Respondent :Mr.R.Balachanderan

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ORDER

This Civil Revision Petition is filed against the dismissal order dated 25.10.2017 made in I.A. No.150 of 2017 in C.M.A. No.12 of 2017 on the file of the Subordinate Judge, Kanchipuram.

2.The learned counsel for the petitioner would submit that the petitioners have filed an appeal in E.A. No.52 of 2013 in E.P. No.24 of

2009 before the learned District Munsif cum Judicial Magistrate, Sriperumbudur and the same has been dismissed. Against which, the revision petitioners have filed CMA. No.12 of 2017 before the learned Subordinate Judge, Kancheepuram and the same is pending. The petitioners also filed an application in I.A. No.150 of 2017 to stay all further proceedings in E.P. No.24 of 2009 in O.S. No.71 of 1976 till the disposal of the above said appeal. The said application has been dismissed by the Appellate Court on 25.10.2017. Therefore, the revision petitioners have filed the present Civil Revision Petition before this Court.

3.Mr.R.Balachanderan, learned counsel for the respondent would submit that the Court below has rightly dismissed the said application. Therefore, there is no warrant to interfere with the order passed by the Court below. Further, the learned counsel for the respondent submitted that there is no objection to dispose of the Civil Miscellaneous Appeal within the time frame as may be fixed by this Court.

4. I have considered the submissions made by both the parties and on perusal of the materials available on records, the revision petitioners have filed an appeal in CMA. No.12 of 2017 before the Subordinate Court,

<http://www.judis.nic.in> Kanchipuram against the order passed in E.A. No.52 of 2013. Pending the

appeal, the revision petitioners have filed an I.A.150 of 2017 to stay all further proceedings in E.P. No.24 of 2009 and the same has been dismissed by the Appellate Court.

5. According to the learned counsel for the petitioner, unless the stay is granted, the Civil Miscellaneous Appeal has to become infructuous. The learned counsel for the respondent cannot have serious objections and no prejudice would be caused to the respondent, if the said application is allowed till the disposal of the appeal. However, taking into consideration of the above said Appeal is pending, this Court is inclined to pass the following order.

“1.The order passed by the Court below in I.A. No.150 of 2017 dated 25.10.2017 is set aside and the same is allowed.

सत्यमेव जयते

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D. KRISHNAKUMAR J.,

rkp

2.The Court below is directed to dispose of the CMA No.12 of 2017 on merits in accordance with law as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order.”

6. The Civil Revision Petition is disposed of with the above direction. Consequently, connected miscellaneous petition also closed. No costs.

29.01.2018

Index: Yes/ No

Internet: Yes/No

Speaking Order/Non Speaking Order

rkp

To

The Subordinate Judge,
Kancheepuram.

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