

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 1692 of 2016
and
CMP. No.9019 of 2016

M.S. Mohamed Meeran

... Petitioners

Vs

1. R. Thulasi
2. Vasanthalakshmi
3. Govindarajalu
4. Murali

.. Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order and decree dated 18.01.2016 made in I.A. No. 375 of 2015 in O.S. No. 343 of 2014 on the file of the Principal District Munsif, Cuddalore.

For Petitioner : Mr. J. Jayan
for Mr. D. Ravichander
For Respondents : Mr.R. Meenal

ORDER

This Civil Revision Petition is filed against the order and decree

dated 18.01.2016 made in I.A. No. 375 of 2015 in O.S. No. 343 of 2014 on the file of the Principal District Munsif, Cuddalore.

2. The respondents filed the suit in O.S. No. 343 of 2014 seeking damages to the tune of Rs.40,000/- and for causing damages to the suit property wall. Previously, the respondents filed a suit in O.S. No. 352 of 2010 seeking for declaration and injunction. The trial court dismissed the aforesaid suit. Challenging the judgment and decree, the respondents preferred an appeal suit in A.S. No. 18 of 2014. The said appeal was allowed. Hence, the petitioner herein filed an appeal in S.A. No. 1184 of 2014 before this Court. According to the petitioner, the instant application in I.A. No.375 of 2015 was filed by him, under Section 10 r/w 151 of CPC to stay all further proceedings in O.S. No.343 of 2014 pending disposal of the S.A. No. 1184 of 2014. The court below has dismissed the said application. Aggrieved by the same, the present revision petition is filed before this Court.

3. The learned counsel for the petitioner vehemently argued before this Court, that when the Second Appeal is pending before this

Court for the same subject matter, if the said suit is proceeded, ultimately, the petitioner would be put to hardship. Therefore, the suit can be stayed till the disposal of the Second Appeal.

4. The learned counsel for the respondents would submit that the aforesaid suit filed by the petitioner is for damages. Further, the petitioner has not obtained any interim orders, pending Second Appeal. Therefore, there is no legal impediment to proceed with the suit. If any decree is passed in the Second Appeal, the same will be binding on the respondents. Hence, at this stage, the application filed by the petitioner is not maintainable and the court below has rightly dismissed the said application.

5. Heard the submission of the learned counsel for both the parties and perused the material available on record.

6. The instant application filed by the petitioner cannot be entertained since the petitioner has not obtained any order of stay, pending disposal of the Second Appeal. Further, it is the submission of

D. KRISHNAKUMAR J.,

the learned counsel for the respondent that any judgment and decree passed in the suit, will be subject to the outcome of the Second Appeal. Therefore, this Court finds no error or illegality in the order passed by the court below.

7. The Civil Revision Petition fails and the same is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

15.02.2018

Index: Yes/ No

Speaking Order/Non Speaking Order

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To

The Principal District Munsif Court,
Cuddalore .

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and

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