



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2018

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.(NPD) (MD)No.709 of 2018
and
CMP(MD) No.3132 of 2018

1.Dharmaraj
2.Subramanian : Petitioners/Respondents/Defendants

Vs.

A.Thanasekaran : Respondent/ Petitioner/Plaintiff

Prayer: Civil Revision Petition is filed under section 115 of the Code of Civil Procedure, against the order, dated 06.02.2018 passed in E.P.No.83 of 2017 in O.S.No.416 of 2011 on the file of the learned Principal District Munsif, Thoothukudi.

For Petitioners : Mr.C.Jeganathan
for M/s.Veera Associates

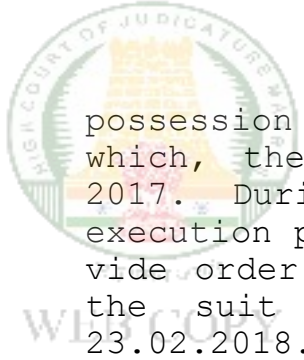
O R D E R

This civil revision is filed against the docket order dated dated 06.02.2018 passed in E.P.No.83 of 2017 in O.S.No.416 of 2011 on the file of the learned Principal District Munsif, Thoothukudi, allowing the execution petition to deliver the vacant possession of the property.

2. The petitioners are the defendants in the suit. The respondent/plaintiff has filed the suit in O.S.No.416 of 2011 for declaration and for recovery of possession. The suit was decreed in favour of the plaintiff on 02.06.2017, against which, the petitioners preferred an appeal in A.S.No.65 of 2017 along with stay petition, and the same is pending. During pendency of the above appeal, the respondent filed an execution petition in E.P.No.83 of 2017, in which the learned Judge has passed an order, dated 06.02.2018, directing the petitioners to hand over the suit schedule property to the respondent / plaintiff on or before 23.02.2018 and now the case is posted on 03.04.2018 for the purpose of delivery. Aggrieved over the same, the petitioner has filed the present Civil Revision Petition before this Court.

3. Heard the learned Counsel appearing for the petitioners and perused the materials available on record.

4. It is seen from the records that the respondent has filed the suit in O.S.No.416 of 2011 for declaration and for recovery of



possession and got a decree in his favour on 02.06.2017, against which, the petitioners have preferred an appeal in A.S.No.65 of 2017. During pendency of the above appeal, the respondent has filed execution petition in E.P.No.83 of 2017, upon which, the Court below vide order dated 06.02.2018, directed the petitioners to hand over the suit schedule property to the respondent on or before 23.02.2018. Even though, the petitioners have preferred an appeal, the learned Principal District Munsif, Thoothukudi, has passed the above impugned order. Though appeal was filed and pending, the execution court has proceeded with the matter, since no interim order was passed in the appeal and therefore, the same cannot be faulted with. Considering the facts and circumstances of the case, ends of justice would be met, if a direction is given to the Appellate Court to dispose of the Appeal within a time frame fixed by this Court.

5. Accordingly, the learned Subordinate Judge, Thoothukudi is directed to dispose of the Appeal suit in A.S.No.65 of 2017 within a period of three months from the date of receipt of a copy of this order and the petitioners are directed to co-operate for the same. Till such time, there shall be an order of interim stay insofar as the Execution proceedings are concerned. If the petitioners are not co-operating for early disposal of the appeal proceedings and/or if the outer time limit granted by this Court for disposal of the appeal proceedings exceeds, the learned Principal District Munsif, Thoothukudi, shall proceed with the matter as if no interim order was passed by this Court.

6. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1. The Subordinate Judge, Thoothukudi.

2. The Principal District Munsif,
Thoothukudi,

+One cc to M/s.Veera Associates, Advocate, SR.No.58726

rm

RL/4C/2p/SV/MMS/SAR4/2/4/2018

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