



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

WEB COPY

C.R.P.(MD)No.902 of 2018 and
CMP(MD).No.3980 of 2018

1.P. Natarajan

2.P. Ramesh

: Petitioners/Petitioners/Respondents/Defendants

-Vs-

Hazarath Rafeeqsha Dharga and
Mosque Wakf, rep' by its Muthawalli

1.S.B. Akbar Jan

2.Naeb-e-Muthawalli A. Mahaboobi

: Respondents/Respondents/Petitioners/Plaintiffs

PRAYER: Civil Revision Petition is filed under Section 115 of CPC to set aside the order passed in E.A.SR.No.1754 of 2018 in E.P.No.238/2017 in O.S.No.820 of 2013, dated 23.03.2018 on the file of the I Additional District Munsif Court, Thiruchirapalli by allowing this Civil Revision Petition.

For Petitioners : Mr.S.Kumar

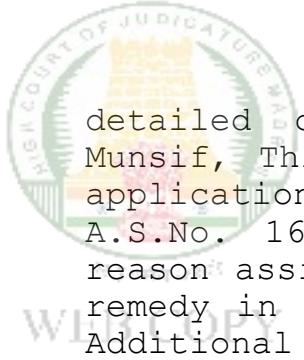
For respondents : Mr.S.Deenadhayan

O R D E R

This Civil Revision Petition has been filed to set aside the order passed in E.A.SR.No.1754 of 2018 in E.P.No.238/2017 in O.S.No.820 of 2013, dated 23.03.2018, on the file of the I Additional District Munsif Court, Thiruchirapalli.

2. The revision petitioners, who are the defendants in the suit in O.S.No.820 of 2013, on the file of the I Additional District Munsif Court, Thiruchirapalli, have filed an application in E.A.SR.No.1754 of 2018, under 21 Rule 26 r/w. 151 CPC in the Execution proceedings in E.P.No. 238 of 2017, for the stay of execution till the disposal of the I.A.No.1378 of 2017 in A.S.No.164 of 2017. The Trial Court without numbering the said application rejected the same, on the ground that as the petitioners have filed an appeal in A.S.No.164 of 2017, they should work out their remedy in the above said appeal. Against the said order, the petitioners have filed the present Civil Revision Petition.

3. Though the petitioners have filed an application in E.A.SR.No.1754 of 2018 under Order 21 Rule 26 r/w. 151 CPC to stay all further proceedings in the Execution Petition along with



detailed counter affidavit, the learned I Additional District Munsif, Thiruchirapalli, without considering the same rejected the application filed by the petitioners saying that the appeal suit in A.S.No. 164 of 2014 is pending before the appellate Court. The reason assigned by the trial Court that they should work out their remedy in the said appeal is totally wrong and the said learned I Additional District Munsif, Thiruchirapalli, has no right to pass such an order without numbering the said application. Hence, this Court is inclined to pass the following order.

4. In the result,

(a) this Civil Revision Petition is allowed by setting aside the order passed by the learned I Additional District Munsif, Thiruchirapalli, in E.A.SR.No.1754 of 2018 in O.S.No.820 of 2013, dated 23.03.2018.

(b) The learned learned I Additional District Munsif, Thiruchirapalli, is directed to number the Execution Application and pass appropriate orders on the said Execution Application, within a week from the date of receipt of a copy of this order.

(c) The learned Judge is directed not to proceed with the Execution proceedings till the numbering of the above said Execution application.

No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The I Additional District Munsif, Thiruchirapalli.

+1cc to M/S.H.Arumugam, Advocate SR.No. 62633

+1cc to M/S.S.Deenadhayalan, Advocate SR.No. 62613

C.R.P.(MD)No.902 of 2018 and
CMP(MD).No.3980 of 2018
20.04.2018

trp

JM/SV MMS/SAR 2/20.04.2018/2P/4C