



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.08.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P.PD[MD]No.1020 of 2018
and
C.M.P.[MD]No.4403 of 2018

P.S.Abdulkadar : Petitioner

Vs.

1.L.Lakshmi
2.S.Indira
3.T.Sorimuthu : Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, praying to call for the records pertaining to the order passed by the learned Principal Subordinate Judge, Tirunelveli in E.P.No.77 of 2017 in O.S.No.160 of 2013 vide his order dated 06.04.2018 and set aside the same.

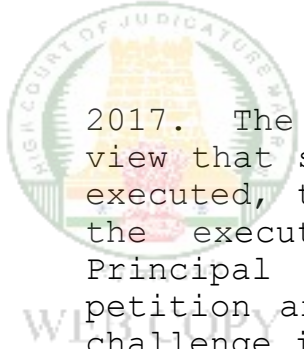
For Petitioner : Mr.H.Arumugam
for Mr.P.Samuel Gunasingh
For Respondents : Mr.S.P.Maharajan

O R D E R

Heard the learned Counsel on either side.

2.The respondents herein filed O.S.No.160 of 2013, on the file of the Additional Subordinate Court, Tirunelveli, seeking the relief of declaration and recovery of possession and also mandatory injunction. The suit was filed on 04.07.2013. The revision petitioner was shown as the sole defendant. He entered appearance through Counsel. But then, his Counsel appears to have reported 'no instructions', leading to passing of ex-parte judgment and decree on 22.07.2014. To set aside the same, the revision petitioner had filed an application only on 06.10.2017. It is submitted that the said application for setting aside the ex-parte judgment and decree and the application to condone the delay in filing the same are pending before the Additional Subordinate Court, Tirunelveli, in I.A.No.646 of 2017 and that orders are yet to be passed.

3.In the meanwhile, the decree holders filed E.P.No.77 of 2017. The revision petitioner herein opposed the allowing of the said execution petition by pointing out the pendency of I.A.No.646 of



2017. The learned Principal Subordinate Judge, Tirunelveli took the view that since there is no stay of the decree that is sought to be executed, the revision petitioner would not be justified in keeping the execution petition in abeyance. Therefore, the learned Principal Subordinate Judge, Tirunelveli, allowed the execution petition and ordered delivery by 06.08.2018. This order is under challenge in the present Civil Revision Petition.

4.This Court makes it clear that the approach adopted by the learned Principal Subordinate Judge, Tirunelveli, cannot be faulted. Therefore, the order impugned in this revision is sustained. However, in the interest of justice, certain directions are passed. The learned Additional Subordinate Judge, Tirunelveli shall dispose of I.A.No.646 of 2017, within a period of two [2] weeks from the date of receipt of a copy of this order. It is made clear that the Additional Subordinate Judge, Tirunelveli, shall dispose of the application filed by the revision petitioner herein, entirely on its own merits, uninfluenced by the outcome of this order. The order directing the delivery of the suit property shall be put on hold for a period of two [2] months from today.

5.With these directions, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1.The Principal Subordinate Judge,
Tirunelveli.

2.The Additional Subordinate Judge,
Tirunelveli.

+1CC to Mr.P.Samuel Guna Singh, Advocate in SR.No.77824.

+1CC to Mr.S.P.Maharajan, Advocate in SR.No.77753.

MR

DS/SKN-RSK/SAR-4 :10.08.2018: 2P/5C

ORDER MADE IN
C.R.P.PD[MD]No.1020 of 2018
09.08.2018