



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2018

CORAM

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THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P.NPD[MD]No.489 of 2016

S.Doss

: Petitioner

Vs.

Chellakkan Nadar

: Respondent

PRAYER: Civil Revision Petitions are filed under Section 115 of the Code of Civil Procedure, praying to allow this Civil Revision Petition thereby to set aside the fair and decreetal order dated 06.08.2015 made in E.P.No.105 of 2014 in O.S.No.522 of 2010 on the file of the Principal District Court, Kulithurai.

For Petitioner : Mr.S.Anwar Sameem

For Respondent : Mr.P.Prabhakaran

O R D E R

The plaintiff in O.S.No.522 of 2010 on the file of the Additional District Munsif Court, Kulithurai is the revision petitioner herein. The suit was decreed on 19.02.2014. To execute the same, he filed E.P.No.105 of 2014. The Execution Petition was dismissed on the ground that the revision petitioner did not disclose the filing of the first appeal by the defendant. Questioning the same, this Civil Revision Petition has been filed.

2.When the matter was taken up for hearing, the learned Counsel for the revision petitioner submitted that he was not aware of the filing of the first appeal by the defendant. Be that as it may, mere filing of appeal by the defendant will not operate as a stay. Therefore, the execution Court was clearly wrong in dismissing the execution petition filed by the revision petitioner. Therefore, the order impugned in this Civil Revision Petition is set aside. The Execution Petition is restored to file. But then, the Execution Petition shall be put on hold for a period of five [5] months. Learned Counsel for the respondent submits that the first appeal has been numbered as A.S.No.82 of 2014 and is pending before the Subordinate Court, Kulithurai. The First Appellate Court shall dispose of the said first appeal within a period of three [3] months from the date of receipt of a copy of



this order.

3..The Civil Revision Petition stands allowed, accordingly.
No costs.

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Sd/-
Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Principal District Judge,
Kulithurai.

2. The Subordinate Judge,
Kulithurai.

+ 1 CC TO Mr.S.ANTONY ARUL RAJ, ADVOCATE IN SR No. 86598

+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 86540

MR

TE/SKN/SAR-4 : 15/11/2018 : 2P/5C

ORDER MADE IN
C.R.P.NPD[MD]No.489 of 2016
25.09.2018