



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 04.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN  
C.R.P. (NPD) (MD) .No.2180 of 2018

and

C.M.P. (MD) No.9718 of 2018

K.A.Sathik Batcha

... Petitioner

Vs.

1.Umar Sarif

2.Sumaiya Banu

... Respondents

PRAYER: Petition filed under Section 115 of the Civil Procedure Code, to call for the records relating to the fair and decreetal order 10.08.2018 made in E.P.No.110 of 2015 in O.S.No.366 of 2009 on the file of Principal Sub Judge, Dindigul, set aside the same.

For petitioner : Mr.V.S.Kumaraguru

ORDER

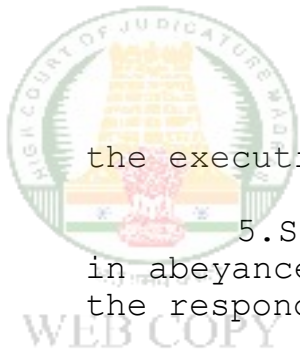
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O.S.No.366 of 2009 was filed by the revision petitioner herein before the learned Principal Sub Judge, Dindigul, seeking the relief of declaration and permanent injunction. In the said suit, the defendants filed a counter claim for recovery of possession. While the suit filed by the plaintiff herein was dismissed, the counter claim was allowed, the revision petitioner herein did not file his appeal in time. It appears that on account of his indigent circumstances, he could not pay the Court fee. In the meanwhile, E.P.No.110 of 2015 came to be filed by the respondents herein. The Court below has ordered delivery.

2.The order passed by the Court below cannot be faulted. But then, this Court has to bear in mind that the revision petitioner is entitled to canvass the correctness of the decree passed by the trial Court in a regular first appeal.

3.The counsel for the revision petitioner states that the first appeal has since been numbered also, it is for the revision petitioner to apply and obtain interim relief before the first appellate Court.

4.Taking note of the fact that the first appeal filed by the revision petitioner has since been numbered, the executing Court is directed to keep the impugned order in abeyance for a period of three months. It is for the revision petitioner to work out his remedies in the meanwhile. If at the end of this three months period, the revision petitioner is unable to produce any stay order,



the executing Court will resume the execution proceedings.

5. Since a limited relief of keeping the execution proceedings in abeyance for a period of three months alone is granted, notice to the respondent is dispensed with.

6. With this direction, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-  
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-IV)

To:

The Principal Subordinate Judge,  
Dindigul.

+1CC TO MR. V.S.KUMARAGURU ADVOCATE IN SR.NO.88589.

PNN  
DS SKN RSK SAR-4 05.10.2018 2P/3C

ORDER MADE IN  
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