

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.03.2019

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA
CRP(NPD).Nos.880 & 883 of 2019

- 1.Thairyalakshmi Ayal
Represented by her Power Agent,
Rajkumar Shanmugam
14, Ganapthy Nagar,
Mayiladuthurai,
Nagapattinam District.
2. Rajkumar Shanmugam ..Petitioners/Defendants
Vs
1.Rajarathinam
2.Balasubramanian
3.Manjuladevi
4.Gomathi ..Respondents/Plaintiffs

PRAYER IN C.R.P.No.880 of 2019: This Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the judgment and decree dated 28.11.2018 passed by the Hon'ble Subordinate Judge, Jayankondam in E.P.No.10 of 2018 in O.S.No. 04 of 2017.

PRAYER IN C.R.P.No.883 OF 2019: This Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Docket order dated 03.10.2018 passed by the learned Principal District Judge, Ariyalur in I.A.No.27 of 2017 in A.S.No. 18 of 2017 and consequently direct the learned Judge to hear the said application on day to day basis and pass orders on the said application within the time as may be fixed by this Hon'ble Court.

For Petitioner : Mr.Vishnu Mohan
for Mr.R.Parthasarathy

O R D E R

C.R.P.No. 880 of 2019, is filed challenging the order in E.P.No. 10 of 2018, whereby, the Court has ordered the delivery. C.R.P.No.883 of 2019, is filed challenging the order in I.A.No. 27 of 2017 in A.S.No.18 of 2017, wherein, the learned Principal District Judge, Ariyalur has simply adjourned the said application for stay.

2 As regards C.R.P.No. 880 of 2019, it is an established fact that the Executing Court cannot go beyond the decree. Until such time as the stay is not granted the Executing Court cannot abdicate its responsibilities in passing orders in Execution Petition

and therefore, the Executing Court had ordered delivery. It is also seen that as against the Judgment and Decree in O.S.No. 4 of 2017, the revision petitioner has filed an appeal in A.S.No. 18 of 2017 and in the said appeal, petition for stay has also been filed. However, it is because no stay has been granted, the Executing Court has proceeded with the delivery. Therefore there is no infirmity in the order passed in E.P.No. 10 of 2018 and C.R.P.No.880 of 2019 is dismissed.

3 C.R.P.No.883 of 2019 is filed for an early disposal of the stay petition filed by the revision petitioner in I.A.No. 27 of 2017 in A.S.No. 18 of 2017, which is filed challenging the Judgment and Decree in O.S.No. 04 of 2017. The learned Judge is directed to dispose of I.A.No. 27 of 2017 within a period of two weeks from the date of receipt of a copy of the order. There shall be an order of stay in respect of delivery alone that is granted in E.P.No.10 of 2018 by the Subordinate Judge, Jayankondam, till the disposal of I.A.No.27 of 2017 by the learned Principal District Judge, Ariyalur.

In the result, C.R.P.No.880 of 2019 is dismissed and C.R.P.No.883 of 2019 is disposed of. No costs.

Sd/-

Assistant Registrar(CS iv)

//True Copy//

Sub Assistant Registrar

dua

To

1.The Subordinate Judge,
Jayankondam.

2.The Principal District Judge,
Ariyalur.

+2ccs to Mr. R.Parthasarathy, Advocate SR.No.
20312,2013130

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A.SK(05/03/2019)