



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.06.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P(MD)No.894 of 2019

and

C.M.P(MD)No.5189 of 2019

1.P.Natarajan

2.P.Ramesh

... Petitioners/Petitioners/
Appellants

Vs.

Hazarath Rafeeqsha Dharga and
Mosque Wakf rep. by its Muthawalli

1.S.B.Akbar Jan

2.Naeb-e-Muthawalli A.Mahaboobi

... Respondents/Respondents/
Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 17.09.2018 made in I.A.No.1378 of 2017 in A.S.No.164 of 2017 by the First Additional Sub Court, Tiruchirappalli.

For petitioner : Mr.H.Arumugam

ORDER

The respondents / plaintiffs had filed the suit in O.S.No.820 of 2013, seeking to direct the defendants to deliver vacant possession of the suit property and pay arrears of rents, damages for use and occupation and also future damages till delivery of possession. The Trial Court decreed the suit and also directed the petitioners/ defendants to deliver vacant possession of the suit property within a period of two months. In order to execute the same, the respondents / plaintiffs filed E.P.No.238 of 2017. Against the Judgment and decree passed in O.S.No.820 of 2013, the petitioners / defendants filed A.S.No.164 of 2017 and also filed I.A.No.1378 of 2017 to grant stay of execution of the decree passed in the suit till the disposal of the appeal. The first appellate Court dismissed the said petition, against which, the present civil revision petition has been filed.

2.The learned counsel for the petitioners / defendants would submit that as per Order XLI, Rule 5 read with Section 151 CPC, the Court below is not barred from exercising its inherent powers to stay the execution of the decree, but the Court below has erroneously dismissed I.A.No.1378 of 2017. Thus, he prayed to set aside the order passed by the Court below.



3. Heard the learned counsel for the petitioners and perused the materials available on record.

4. Perusal of records would show that the respondents / plaintiffs filed E.P.No.238 of 2017 to execute the decree passed in O.S.No.820 of 2013, wherein the Trial Court on 26.03.2018, ordered delivery by 16.04.2018. As delivery was effected, the Court below closed I.A.No.1378 of 2017 as infructuous, giving liberty to the petitioner to work out their remedy under Section 144 CPC on the conclusion of the appeal proceedings. In my considered opinion, there is no infirmity in the order passed by the learned Judge dismissing the stay petition. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (records)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The First Additional Sub Judge,
Tiruchirappalli.
2. The Record Keeper,
V.R. Section, (2 copies)
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.H.ARUMUGAM, Advocate (SR-70104[F] dated 20/06/2019)

**ORDER MADE IN
C.R.P(MD) No.894 of 2019
and
C.M.P(MD) No.5189 of 2019
19.06.2019**

smn

MK (03.07.2019) 3P 5C