

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Wednesday, the Twenty Ninth day of July Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R.MAHADEVAN

CMP No.7943 of 2020

IN AS.609 of 2020

1 THIRUMALAI NATHAN [PETITIONERS]
2 S.RAMANATHAN
3 KALYANI
4 DHANAKODY
5 MANGAIKARASI
6 JAYALAKSHMI

Vs

1 S. PALANI SWAMINATHAN [RESPONDENTS]
S/O.SRINIVASANPILLAI,
REP.BY POWER AGENT MR.K.VENGATESH.
2 RENGANATHAN

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant an order of stay of all further proceedings pursuant to the decree and judgment dated 14.03.2019 passed in O.S.No.7 of 2014 by the Learned District Judge, Karaikal, (in CMP.No.7943/2020) pending disposal of the above appeal 609/2020.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.S.PARTHASARATHY, senior Counsel for MR.P.DINESH KUMAR, Advocate for the petitioners and of MR.S.NAMASIVAYAM Advocate on behalf of the Respondents the court made the following order:-

O R D E R

According to the petitioners/appellants, all the parties are brothers and sisters in relationship; the suit in O.S.No.7 of 2014

was filed by the first respondent / plaintiff for partition and declaration, alleging that as per the registered Will dated 05.07.1999 on the file of the Sub Registrar, Puducherry, executed by their father late Srinivasa Pillai, Schedule I of the suit property was allotted to him and Schedule II of the suit property was allotted to the mother; and the first petitioner/ first appellant / second defendant fraudulently obtained a declaratory decree in O.S.No.191 of 2010 for legal heir ship status of the deceased Srinivasa Pillai ; the said suit was decreed in favour of the first respondent/ plaintiff on 14.03.2019, against which, the present appeal suit came to be filed by the defendants 2 to 7.

2.The learned Senior Counsel appearing for the petitioners/ appellants submitted that the Will dated 05.07.1999 said to have been executed by the father late Srinivasa Pillai is not a genuine one and the father had no right to execute the said Will, as the property is ancestral property. He further submitted that taking advantage of the judgment and decree passed by the trial Court in O.S.No.7 of 2014, the respondents are taking steps to file final decree application.

3.On the other hand, the learned counsel for the respondents made his submissions supporting the judgment and decree passed by the trial Court.

4.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, there shall be an order of interim stay in respect of passing of final decree alone, till the disposal of the appeal. However, it is made clear that other proceedings shall go on.

5.This petition stands ordered accordingly.

6.At the request of the learned counsel appearing for the respective parties, Registry is directed to list the appeal suit for hearing on 09.11.2020.

सत्यमेव जयते -sd/-

29/07/2020

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Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

THE DISTRICT JUDGE,
KARAIKAL.

C.C. to P.DINESH KUMAR Advocate on payment of necessary charges
The Government Advocate, High Court, Madras - 104.

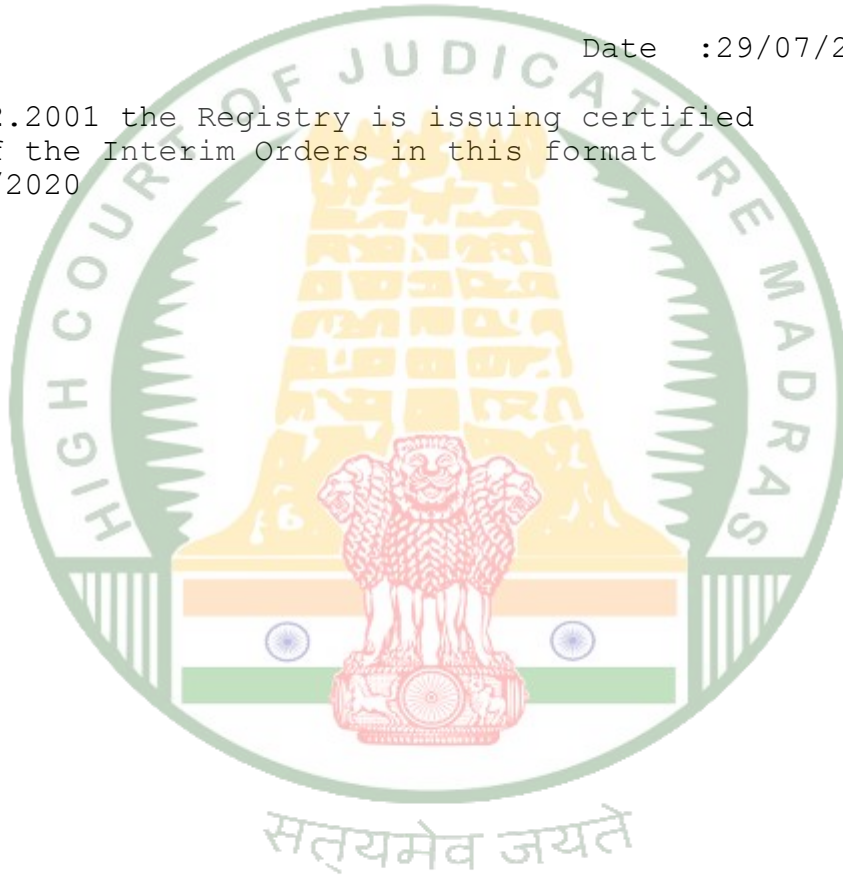
Order

in
CMP.7943/2020

in
AS.609/2020

Date :29/07/2020

From 26.2.2001 the Registry is issuing certified
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SDR 20/08/2020



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