

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.11.2020

PRONOUNCED ON : 24.11.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P. RAJAMANICKAM

C.R.P (NPD).No.2871 of 2015

and

MP.No.1 of 2015

Angayarkanni  
W/o.Murugan

...Petitioner

- Vs. -

1. Sundaramoorthy  
S/o.Ethiraj

2. Arikrishnan  
S/o.Jayaraman

3. Kamala @ Selvi  
W/o.Arikrishnan

4. Sundar @ Munisamy  
S/o.Balakrishnan

5. Patchaiammal  
W/o.Sundaramoorthy

...Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of The Constitution of India, praying to set aside the order and decretal order dated 07.07.2015 in I.A.No.1392 of 2015 in A.S.No.1 of 2015 by the Principal

District Judge, Pondicherry.

For Petitioner : M/s.Dr.C.Ravichandran

For Respondents : Mr.T.Sai Krishnan  
of M/s.Sai, Bharath and Ilan for R1  
R2 to R5 - No Appearance

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**ORDER**

This Civil Revision Petition has been filed by the petitioner/appellant against the dismissal of her application by the Principal District Judge, Pondicherry in I.A.No.1392 of 2015 in A.S.No.1 of 2015 dated 07.07.2015.

2. The first respondent herein had filed a suit in O.S.No.52 of 2008 on the file of the Additional Sub Judge, Pondicherry against the petitioner herein and four others to declare that he is the absolute owner of the suit property and for permanent injunction restraining the defendants therein and their men, agents and anyone from interfering into his peaceful possession and enjoyment of the suit property. The learned Sub Judge, by the judgment dated 10.11.2014 had decreed the suit as prayed for with costs. Feeling aggrieved, the fifth defendant had filed an appeal in A.S.No.1 of 2015 on the file of the Principal District Judge, Pondicherry and also filed an application in I.A.No.1392 of 2015 to stay the operation of the judgment and decree passed by the Trial Court till the disposal of the appeal. The learned

Principal District Judge, Pondicherry by the order dated 07.07.2015 had dismissed the said application. Feeling aggrieved, the petitioner herein/appellant/5<sup>th</sup> defendant has filed the present Civil Revision Petition.

3. Heard Dr.C.Ravichandran, learned counsel for the petitioner and Mr.T.Sai Krishnan for M/s.Sai, Bharath and Ilan, learned counsel for the first respondent/plaintiff.

4. The learned counsel for the petitioner has submitted that even though the petitioner herein had contested the suit by adducing oral and documentary evidence, the Trial Court had decreed the suit, which was filed by the first respondent herein as prayed for with costs. He further submitted that feeling aggrieved, the petitioner herein/5<sup>th</sup> defendant had filed an appeal in AS.No.1 of 2015 on the file of the Principal District Judge, Pondicherry and also filed an application in I.A.No.1392 of 2015 to stay the operation of the judgment and decree passed by the Trial Court till the disposal of the appeal. He further submitted that the Appellate Court erroneously dismissed the said application by saying that the decree passed by the Trial Court is not an executable one. He further submitted that since the Trial Court had not only granted decree for declaration of title and also granted decree for

permanent injunction. The said decree in respect of the relief for permanent injunction is an executable one. He further submitted that this Court at the time of admitting this Civil Revision Petition has granted interim stay on 20.07.2015 and the said stay continues till today and therefore, he prays to allow this Civil Revision Petition and direct the Appellate Court to dispose of the appeal by fixing time.

5. Per contra, the learned counsel for the first respondent/plaintiff has submitted that the Trial Court, after taking into consideration the materials placed before it, came to the conclusion that the first respondent herein/plaintiff is the absolute owner of the suit property and he is in possession and enjoyment of the same, and accordingly decreed the suit as prayed for with costs. He further submitted that the Appellate Court, after taking into consideration the aforesaid facts, had rightly refused to grant interim stay of the operation of the judgment and decree passed by the Trial Court and in the said order, this Court need not interfere and therefore, he prayed to dismiss this Civil Revision Petition.

6. A perusal of the records shows that this Court on 20.07.2015 had

passed an order granting interim stay. The said interim stay continues even

today i.e., for the past five years, the petitioner herein has been enjoying the benefit of interim stay. Taking into consideration the aforesaid fact, this Court is of the view that without going into the merits of the case, the Appellate Court can be directed to dispose of the appeal at early and till then interim stay can be granted.

7. In the result, this Civil Revision Petition is allowed. The Order passed by the Principal District Judge, Pondicherry in I.A.No.1392 of 2015 in A.S.No.1 of 2015 is set aside and that the said application is allowed. Interim stay is granted till the disposal of the appeal. The Principal District Judge, Pondicherry is directed to dispose of the appeal in A.S.No.1 of 2015 within a period of three (3) months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

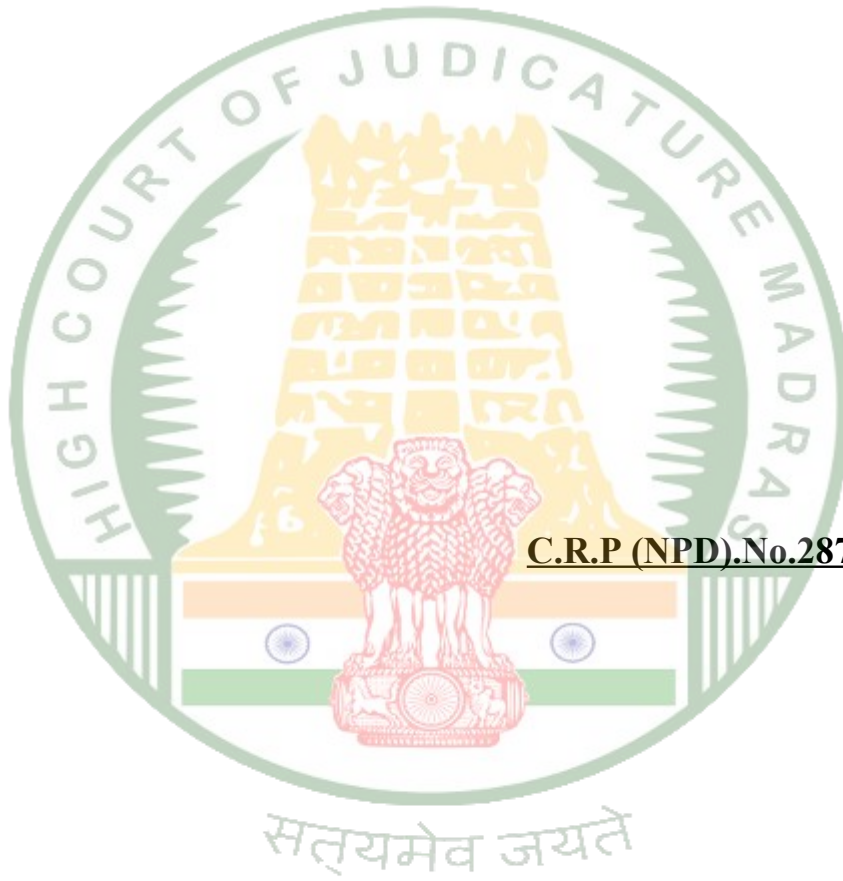
Speaking/Non-speaking Order

To

The Principal District Judge,  
Pondicherry.

**P. RAJAMANICKAM, J.**

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**24.11.2020**