

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.12.2020

PRONOUNCED ON : 18.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(PD)No.2056 of 2016

CMP.No.10688 of 2016

(Through Video Conferencing)

1. Kannayya Naidu
2. Logayya
3. Murali

Petitioners

Vs

Anandan

Respondent

Prayer:- This Civil Revision Petition has been filed, under Section 227 of the Constitution of India, to set aside the fair and decreetal order, dated 07.01.2016, made in IA.No.115 of 2015 in OS.No.685 of 2014, by the Subordinate Judge, Arakkonam.

For Petitioner : Mr.V.Ayyapparaja

For Respondent : Mr.A.Gouthaman

ORDER

1. This Civil Revision Petition has been filed, to set aside the fair and decreetal order dated 07.01.2016, made in IA.No.115 of 2015 in OS.No.685 of 2014, by the Subordinate Judge, Arakkonam.
2. The facts of the case, in a nutshell, are that the Defendants are the Petitioners and the Plaintiff is the Respondent. The suit was filed for

damages. In the suit, the Defendants have filed the present application to stay the proceedings of the suit till the disposal of the second appeal. Since the said application was dismissed by the impugned order, this Civil Revision Petition has been filed.

3. This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.
4. According to the Petitioners, since the parties and the issues involved in the present suit and in OS.No.153 of 2003 are identical, in order to avoid conflicting findings, stay of the proceedings of the present suit is necessary, till the disposal of the second appeal.
5. According to the Respondent, though the second appeal is pending, the Respondent is entitled to file the present suit for damages, however, the prayer and the cause of action are different and if at all the application seeking stay should have been filed before the High Court where the second appeal is pending.
6. Admittedly, SA.No.193 of 2012 is pending. On a perusal of OS.No.153 of 2003 and OS.No.685 of 2014, it is seen that the OS.No.153 of 2003 was filed for declaration, mandatory injunction and permanent injunction and OS.No.685 of 2014 was filed for damages. Hence, it is apparent that the cause of action and the reliefs sought for in both the suits are different from each other. If at all the Petitioners ought to have sought for stay of the present suit before the High Court where the second appeal is pending. Hence, the present application, seeking to stay of the present suit till the

disposal of the second appeal is not sustainable. Holding so, the court below has rightly rejected the present application, by the impugned order, which warrants no interference by this Court.

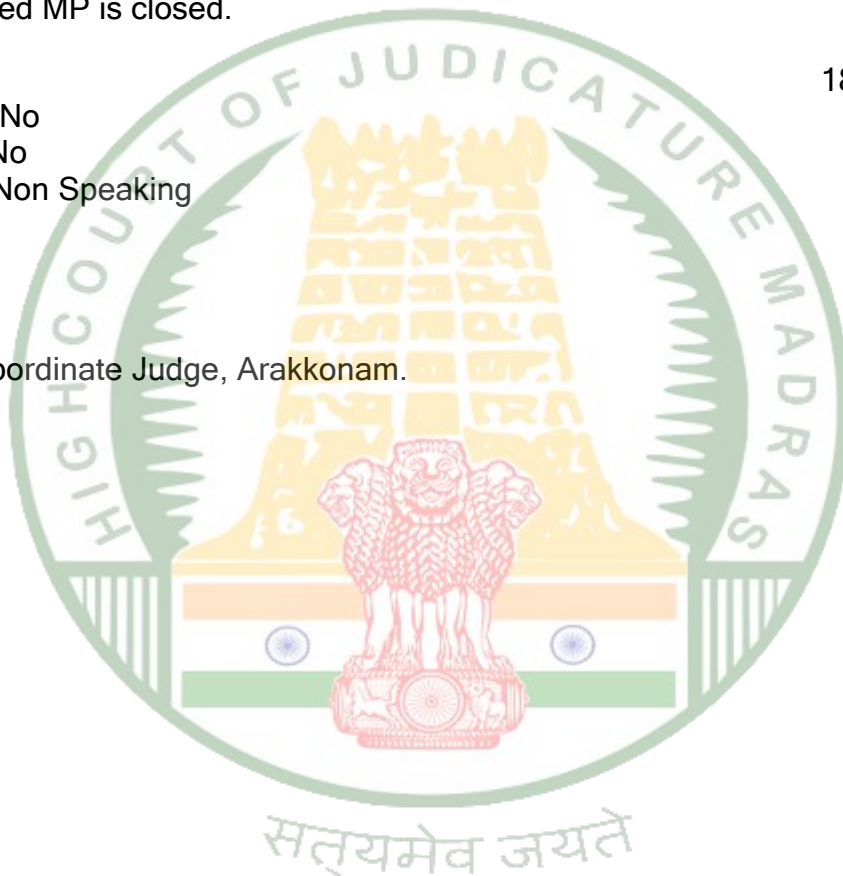
7. In fine, this Civil Revision Petition is dismissed. No costs. Consequently, the connected MP is closed.

18.12.2020

Index:Yes/No
Web:Yes/No
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To

1. The Subordinate Judge, Arakkonam.

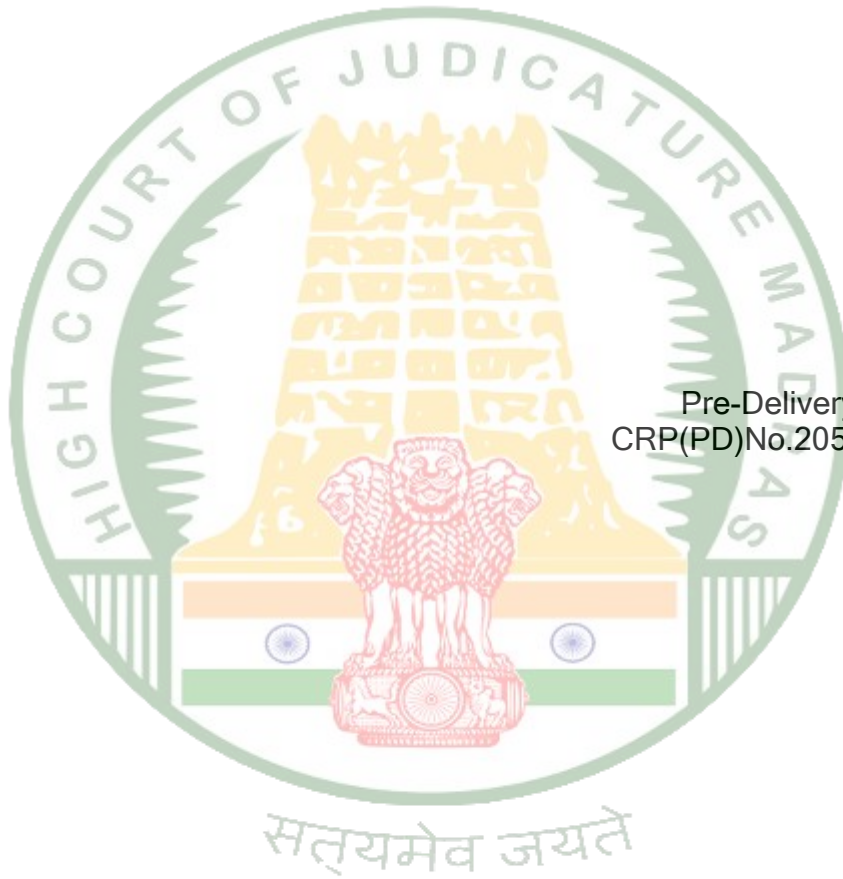


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CRP(PD)No.2056 of 2016

A.A.NAKKIRAN, J.

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Pre-Delivery Order in
CRP(PD)No.2056 of 2016

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