



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Twenty First day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice R.SUBRAMANIAN

C.M.P. (MD)No.1457 of 2020

and

C.M.P. (MD)No.11600 of 2019

in

S.A. (MD)No.576 of 2019

C.M.P. (MD)No.1457 of 2020;

G.RAJAMMAL

... PETITIONER/ RESPONDENT/
RESPONDENT

Vs

MARIMUTHU (DIED)
S.BALAKRISHNAN (DIED),
GOMATHI (DEAD),

- 1 B. THIAGARAJAN
- 2 B. SWAMINATHAN
- 3 KADALKANNI
- 4 ANJALI

... RESPONDENTS/ PETITIONERS/
APPELLANTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to vacate stay the interim order dated 2.12.2019 granted in CMP(MD). No.11600 of 2019 in SA(MD).NO.576 of 2019.

CMP (MD) No.11600 of 2019:

MARIMUTHU (DIED)
S.BALAKRISHNAN (DIED),
GOMATHI (DEAD),

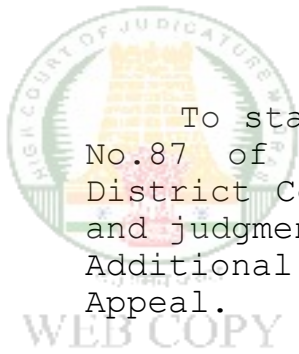
- 1 B. THIAGARAJAN
- 2 B. SWAMINATHAN
- 3 KADALKANNI
- 4 ANJALI

... PETITIONERS / APPELLANTS

Vs

G.RAJAMMAL

... RESPONDENT / RESPONDENT



To stay all further proceeding of the decree and judgment in AS No.87 of 2017 dated 21.02.2019 on the file of the Additional District Court (Fast Track Court), Kumbakonam confirming the decree and judgment in OS No.66 of 2010 dated 31.07.2017 on the file of the Additional Sub Court, Kumbakonam pending disposal of the Second Appeal.

Prayer in SA(MD). 576/ 2019 :

Pleaded to set aside the judgment and decree dated 21.02.2019 and made in AS No.87 of 2017 on the file of the Additional District Court (Fast Track Court), Kumbakonam confirming the judgment and decree dated 31.07.2017 and made in OS No.66 of 2010 on the file of the Additional Subordinate Judge of Kumbakonam and allow the above Second Appeal.

ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of M/S.M.P.SENTHIL, Advocate for the petitioner in CMP(MD)No.1457 of 2020 and respondent in CMP(MD) No.11600 of 2019 and Mr.R.AMARDEEP, Advocate for the petitioners in CMP(MD)No.11600 of 2019 and respondents in CMP(MD)No.1457 of 2020, the court made the following order:-

C.M.P.(MD)No.11600 of 2019 has been filed seeking stay of execution of decree in O.S.No.66 of 2010, which is a decree for recovery of possession. Interim stay was granted on 02.12.2019, while admitting the appeal.

2. The respondent has come out with this petition seeking to vacate the interim the order of stay granted. The suit is one for recovery of possession simpliciter, there is no prayer for either mesne profits or damages. The appeal has been admitted. If the decree is allowed to be executed pending appeal, the appeal itself will become infructuous. In view of the same, I do not see any justification in the respondent seeking to vacate the interim order granted.

3. Therefore, interim order of stay already granted on 02.12.2019 is made absolute and this civil miscellaneous petition is dismissed.

sd/-
21/02/2020

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE ADDITIONAL DISTRICT COURT (FAST TRACK COURT),
KUMBAKONAM.

2 THE ADDITIONAL SUBORDINATE COURT,
KUMBAKONAM.

+1CC TO Mr.R.AMARDEEP, ADVOCATE, SR NO.3757

ORDER
IN
C.M.P. (MD)No.1457 of 2020
and
C.M.P. (MD)No.11600 of 2019
in
S.A. (MD)No.576 of 2019
Date :21/02/2020

AE/PN/SAR-3/26.02.2020/3P.4C