



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P.(MD)No.1061 of 2020

&CMP(MD)No.6858 of 2020

WEB COPY

V.Kannan

... Petitioner/Petitioner/
Petitioner/Defendant

Vs.

T.Selvarengan

... Respondent/Respondent/
Respondent/Plaintiff

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the Judgment and Decree dated 05.02.2020 made in E.A.No.1 of 2019 in E.P.No.21 of 2018 in O.S.No.37 of 2012 on the file of the 1st Additional Sub Court, Nagercoil.

For Petitioner : Mr.T.Selvakumaran

O R D E R

The defendant in O.S.No.37 of 2012 is the revision petitioner herein. The suit was decreed, challenging which, the revision petitioner has preferred A.S.No.21 of 2018 before the District Court Kanyakumari District at Nagercoil. This appeal is pending. While so, the decree holder has preferred E.P.No.21 of 2018 for executing the decree. The revision petitioner/defendant/JD would now file E.A.No.1 of 2019 under Order 21 Rule 26 CPC for staying the execution petition in view of the pendency of the first appeal. This has been dismissed by the Execution Court. This is now under challenge in this petition.

2.In the opinion of this Court, the Execution Court has rightly dismissed the petition, for, Order 21 Rule 26 CPC only provides a temporary reprieve to a defendant who has suffered a decree to enable him approach the appellate Court for appropriate remedies. The revision petitioner is now required to approach the first Appellate Court where A.S.No.21 of 2018 is pending. It may also be mentioned that the revision petitioner's petition for staying the decree in all probability would have been filed towards the end of 2018 or in January 2019. It should be almost two years since this application was filed. Therefore, in fitness of things, the first Appellate Court may consider disposing of A.S.No.21 of 2018 pending on its file at the very earliest.



3.In the result, the Civil Revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

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To

The First Additional Sub Court, Nagercoil.

Copy to: The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2)

+1cc to Mr.T.Selvakumaran, Advocate, SR.No.26522.

**C.R.P. (MD)No.1061 of 2020
17.12.2020**

ES (CO)

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