



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2020

CORAM

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.R.P. (MD) No. 938 of 2020

and

M.P. (MD) No. 6111 of 2020

Muthu

... Petitioner/Judgment Debtor/
Defendant

-Vs-

Ravikumar

...Respondent/Decree Holder
/Plaintiff

Prayer: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, against the order and decree dated 02.07.2020 passed in E.P.No.6 of 2018 in O.S.No.10 of 2017 on the file of the District Munsif Cum Judicial Magistrate, Ilayangudi, Sivagangai District.

For Petitioner : Mr.B.Prahalad Ravi

O R D E R

The revision petitioner herein is the judgement debtor in E.P.No.6 of 2018 in O.S.No.10 of 2017 on the file of the District Munsif cum Judicial Magistrate Court, Ilayankudi.

2. The plaintiff/respondent herein was unsuccessful in his O.S.No. 10 of 2017 which he laid for recovery of his property and for mandatory injunction. Challenging the said decree, the revision petitioner/defendant has approached the First Appellate Court with A.S.No.109 of 2018 on the file of the Sub Court, Sivagangai and it is pending. In the meantime, the decree holder has filed E.P.No.6 of 2018 and this was resisted by the revision petitioner herein on the ground that the decree itself has not attained finality as the matter is pending before the first appellate Court. The execution Court has justly rejected it, since the decree of the first appellate Court was not stated by it. Challenging the order of the execution Court dated 12.10.2020, the present revision is filed.

3. Heard the learned counsel for the petitioner.

4. The learned counsel for the petitioner submitted that along with first appeal in O.S.No.109 of 2018, an application has been filed for stay of the operation of the trial court decree, and that the decree holder before the trial Court has entered appearance.



5. This Court does not find any irregularity or impropriety in the impugned order of the execution Court. The revision petitioner has to workout his remedy in the pending first appeal before the Sub Court, Sivagangai.

6. This Civil Revision Petition is disposed of accordingly. The first Appellate Court is required to either take up the application for staying the decree of the lower Court or even the first appeal itself (since it is pending from 2018) for final disposal. At any rate, the first appeal is required to be dispose of on or before 15.02.2021. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

ta/Cm

To:

1.The District Munsif Cum Judicial Magistrate,
Ilayangudi, Sivagangai District.

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

+1 CC to M/s.B. PRAHALAD RAVI, Advocate (SR-23614[F] dated
02/12/2020)

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and

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KG (CO)

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