



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM :

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.No.233 of 2019

and

C.M.P.No.1897 of 2019

1.Mr.K.Srirangaraj

2.Minor Hariprasath

Rep. By Natural Guardian K.Srirangaraj

...Petitioners/Defendants

Vs

Rukkumani

...Respondent/Plaintiff

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair order and decretal order passed in Interlocutory Application bearing I.A.No.1042 of 2017 in O.S.No.664 of 2011 dated 30.01.2018 on the file of Principal Subordinate Court, Coimbatore by way of allowing this Civil Revision Petition.

For Petitioners : Mr.S.Saravanan.

For Respondent : Mr.B.Nedunchezhiyan.

O R D E R

This Civil Revision Petition has been filed against the order passed in I.A.No.1042 of 2017 in O.S.No.664 of 2011 by the Learned Principal Subordinate Judge, Coimbatore on 30.01.2018.

2.It is seen from the records that I.A.No.1042 of 2017 was filed under Section 10 of the Civil Procedure Code for staying the further proceedings in O.S.No.664 of 2011 till the disposal of the Second Appeal which is pending before this Court. The reason stated is that the nature of issue in O.S.No.664 of 2011 is also directly and substantially similar to the issue in S.A.No.1498 of 2001.

3.The Learned Principal Subordinate Judge, Coimbatore has dismissed the Petition on the ground that the Petitioner ought to have filed a Petition under Section 11 of Civil Procedure Code instead of filing a Petition under Section 10 of Civil Procedure Code. Against the said dismissal order, this Present Civil Revision Petition has been filed.



4. When the matter is taken up for hearing, the Learned Counsel for the Respondent submitted that the Second Appeal is listed for final hearing and the Respondent in the Second Appeal is the Plaintiff in O.S.No.664 of 2011. He has also submitted that only if the Second Appeal is disposed, the proceedings in the Suit can be conducted.

5. In these circumstances, this Court is of the considered view that the proceedings in O.S.No.664 of 2011 can be proceeded only after the disposal of the Second Appeal and accordingly, the order passed in I.A.No.1042 of 2017 in O.S.No.664 of 2011 is set aside and the proceedings in O.S.No.664 of 2011 is stayed till the disposal of the S.A.No.1498 of 2001.

6. Resultantly, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ay

To

The Principal Subordinate Judge,
Coimbatore.

+1cc to M/s.B.Nedunchezhiyan, Advocate, S.R.No.48783
+1cc to M/s.S.Saravanan, Advocate, S.R.No.48180

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and
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PR 06/10/2021