



C.R.P(NPD).No.614 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P.(NPD).No.614 of 2019

1.Paramasivam
2.Avinashiappan
3.Vasanthamani

... Petitioners

Versus

Ponnammal

... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of CPC, praying to set aside the fair and final order passed in I.A.No.1943 of 2018, in A.S.No.24 of 2017, dated 22.01.2019 and direct the learned II Additional District and Sessions Judge, Tiruppur, to decide the appeal in A.S.No.24 of 2017 along with O.S.No.325 of 2017.

For Petitioners : Mr.J.Franklin

For Respondents : Ms.D.Chitra Maragatham



C.R.P(NPD).No.614 of 2019

WEB COPY

ORDER

This Civil Revision Petition has been filed against the fair and final order passed in I.A.No.1943 of 2018, in A.S.No.24 of 2017, dated 22.01.2019 and direct the learned II Additional District and Sessions Judge, Tiruppur, to decide the appeal in A.S.No.24 of 2017 along with O.S.No.325 of 2017.

2.Heard both sides.

3.The Revision petitioners herein are the defendants in the suit in O.S.No.276 of 2012 filed by the plaintiff/respondent herein for the relief of partition and other consequential relief. The said suit was contested by both the parties concerned and the suit was decreed in favour of the plaintiff. Aggrieved by that, the defendants preferred an appeal in A.S.No.24 of 2017 on the file of the Principal District Court, Tiruppur. During the pendency of the appeal, these defendants preferred I.A.No.1943 of 2018 under Order 41 Rule 5 of C.P.C for stay till the disposal of the suit pending before the Subordinate Court, Tiruppur, in O.S.No.325 of 2017.



C.R.P(NPD).No.614 of 2019

WEB COPY

4.The said application was contested by the respondent/plaintiff and on hearing both sides, the application was dismissed by the trial Court on the ground that the reasons stated for the stay are not sustainable. Aggrieved by that order, the defendants preferred this revision petition.

5.The learned counsel for the petitioners would submit that the suit is pending before the Subordinate Court, Tiruppur, as part heard and if the appeal is ordered on merits, it would give rise to multiplicity of proceedings.

6.The learned counsel for the respondent submits that she filed a suit for partition in the year 2012. She filed another suit in O.S.No.325 to deposit the rent against the revision petitioner and others which is pending before the Subordinate Court and the plaintiff evidence was also by this time is over. Further she would submit that the relief claimed in that O.S.No.325 of 2017 only seeking a direction to deposit the rent which in no way connected with the relief of partition sought for in A.S.No.24 of 2017.



C.R.P(NPD).No.614 of 2019

WEB COPY

7.Considering both submissions, on perusal of the records, it reveals that the original suit was filed by the plaintiff in the year 2012 for partition against these revision petitioners, who also contested the said suit and the appeal was also pending before the Principal District Judge, Tiruppur. The another suit in O.S.No.325 of 2017 filed by the same plaintiff with regard to deposit of rent of 1/4th share against the revision petitioners and other tenants and the said suit is also part heard. The relief claimed in the subsequent suit is no way connected with the appeal and the issues involved in the appeal in A.S.No.24 of 2017. Therefore, there is no need to stay the proceedings. For the reasons discussed above, the trial Judge rightly concluded this aspect, which calls for no interference by this Court.

8.Accordingly, this Civil Revision petition is dismissed. However, the trial Judge is directed to dispose of the matter within a period of three months from the date of receipt of a copy of this order.

28.10.2021

Internet : Yes / No
Index : Yes / No
ub



C.R.P(NPD).No.614 of 2019

WEB COPY
To
The II Additional District and Sessions Judge,
Tiruppur.



WEB COPY



C.R.P(NPD).No.614 of 2019

T.V.THAMILSELVI, J.

ub

C.R.P.(NPD).No.614 of 2019

28.10.2021