



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2021

CORAM:

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

C.M.A.NO.237 OF 2014

AND

M.P.NO.1 OF 2014

1.A.Surya

2.A.Swedha

3.A.Udhaya Kumar

... Appellants

Vs.

1.R.Rajendra Prabhu

2.N.Arul Mozhi

... Respondents

PRAYER:-

Civil Miscellaneous Appeal is filed under Order 43 rule(r) Civil Procedure Code, pleaded to set aside the fair and decretal order dated 25.07.2013 in I.A.No.11 of 2013 in O.S.No.2 of 2013 on the file of III Additional District Judge, Thiruppathur, Vellore District.

For Appellants : Mr.R.Subramanian

For Respondents : Not ready in notice

J U D G M E N T

The learned counsel for the appellants submitted that the 1st appellant died. Till now, he has not taken any step to implead the legal heirs as he is not aware of the legal heirs of the deceased. Hence, he seeks time to take steps.

2. On perusal of the records, it is seen that at the time of filing Civil Miscellaneous Petition in the year 2014, an order of interim stay was granted till 27.01.2014 and thereafter, stay was not extended. Furthermore, the case is also not listed for enquiry. But without extension of the stay, the Civil Miscellaneous Petition is pending, due to which, the suit also not proceeded for trial under the impression that the stay is extended till date.



3. In fact, that suit was filed in the year 2013, due to the pendency of the Civil Miscellaneous Appeal and interim injunction was granted in I.A.No.11 of 2013 not to alienate the properties. But, the nature of the suit claim arose between the parties, based upon the sale agreement dated 30.12.2011 a suit for specific performance arose between parties. Therefore, the parties have to work out their remedies before the Trial Court.

4. Since the 1st respondent reported death and no step was taken, besides interim stay was also not extended all these years, the trial Court was not able to conduct the trial. The legal heirs of the 1st appellant are at liberty to approach the remedy before the trial Court. The trial Court is directed to dispose the case within a period of three months from the date of receipt of a copy of this order.

5. In view of the above, this Civil Miscellaneous Appeal is Closed. Consequently connected Civil Miscellaneous petition is closed. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rri

To

The III Additional District Judge,
Thiruppathur,
Vellore District.

Copy to:

The Section Officer,
VR Section,
High court,
Madras.

+1cc to Mr.R.Subramanian, Advocate, S.R.No.19669

C.M.A.NO.237 OF 2014 AND
M.P.NO.1 OF 2014

KV(CO)
PBS/10/08/2021