



C.R.P(NPD)Nos.2271 & 2275 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2021

CORAM :

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

CRP(NPD) Nos.2271 & 2275 of 2021

and

CMP.No.17247 of 2021

Adambasha

... Petitioner in both revision petitions

Vs.

1.Abdul Munab
2.Bibijan
3.Sarvar Basha
4.Kasha
5.Sathik Basha
6.Adambasha
7.Saina
8.Kadhar

...Respondents in both revision petitions

Prayer in CRP.No.2271 of 2021: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 22.02.2021 made in REA.No.83 of 2019 in REA.No.21 of 2019 in REP.No.63 of 2016 in OS.No.130 of 2015 on the file of the Sub-ordinate Judge, Harur.

Prayer in CRP.No.2275 of 2021: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order of the Sub-ordinate Judge, Harur dated 24.03.2021 passed in REA.No.21 of 2019 in REP.No.63 of 2016 in OS.No.130 of 2015.



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For Petitioner in both petitions : Mr.A.Ilayaperumal

COMMON ORDER

Challenge in CRP.No.2271 of 2021 is to the order of the Sub-ordinate Judge, Harur made in REA.No.21 of 2019 filed under Order 21 Rule 26 of C.P.C., seeking stay of execution proceedings. The sole ground, on which stay of execution has been sought for is that the petitioner has filed a separate suit in O.S.No.201 of 2021 on the file of the District Munsif, Pappireddipatti seeking partition and therefore, the present execution will have to be stayed.

2.Admittedly, the petitioner is not a party to the proceedings in O.S.No.130 of 2015, the decree, which is sought to be executed in REP.No.63 of 2016. The Executing Court, in my considered opinion, cannot stay execution on the ground that another suit is pending. The only circumstance under which the Executing Court can stay execution of the decree is enumerated under Order 21 Rule 26 of C.P.C. The reason assigned by the petitioner for seeking stay of execution does not fall within the scope of Order 21 Rule 26 of C.P.C. Hence, the very application for stay is not



maintainable. The Trial Court was therefore, right in dismissing the same.

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3.I do not see any material irregularity or illegality in the order of the Trial Court so as to enable me to entertain this revision filed under Article 227 of the Constitution of India. This civil revision petition fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

4.In view of the order passed in CRP.No.2271 of 2021, CRP.No.2275 of 2021, which has been filed against the rejection of application seeking amendment of REA.No.21 of 2019 is also dismissed. It is open to the petitioner to avail appropriate remedy under law and if such application is made, the Court concerned will deal with the same without being influenced by any of the observations made herein above or in the order of the Trial Court.

15.11.2021

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Index :No

Internet:Yes

Speaking Order:Yes



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R.SUBRAMANIAN,J.

KKN

To:-

The Sub-ordinate Judge,
Harur.

CRP(NPD).Nos.2271 & 2275 of 2021
and C.M.P.No.17247 of 2021



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