



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Thursday, the Twenty Second day of July Two Thousand Twenty One

PRESENT

THE HON`BLE MR.JUSTICE M.SUNDAR

CMP No.20537 of 2019

IN SA.No.963 of 2019

G.K.THIRUMOORTHY

[PETITIONER]

Vs

R.RAMALINGAM

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to stay the operation of the Judgment and decree passed by the V Additional District and Sessions Judge, Coimbatore, dt. 25/02/2019 in AS NO. 38/2018 confirming of the Subordinate Judge, Mettupalayam, dated 14/02/2018 in OS No. 2/2017 (old OS.NO.385/2006) (CMP.NO.20537/2019) pending disposal of the main SA.NO.963/2019.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of T.SAI KRISHNAN, Advocate for the petitioner and of MR.R.VENKATACHALAPATHY, Advocate for the Respondent, the court made the following order:-

Mr.T.Sai Krishnan, learned counsel on record for petitioner/appellant and Mr.R.Venkatachalapathy, learned counsel on record for respondent/respondent in captioned second appeal are before this Virtual Court.

2. Read this in conjunction with and in continuation of separate proceedings made today in captioned main second appeal, which reads as follows:

'Mr.T.Sai Krishnan, learned counsel for appellant/defendant in trial Court and Mr.R.Venkatachalapathy, learned counsel on record for lone respondent/plaintiff in trial Court are before this Virtual Court.



WEB COPY

2. Case file placed before this Court brings to light that captioned second appeal has been admitted by Hon'ble predecessor Judge on 20.09.2019. This Court is informed that records from the District judiciary have not been received as yet.

3. Registry of this Court to send a reminder, follow up and ensure that records are received and placed before this Court before the next listing. Both learned counsel agree that captioned second appeal can be heard out (final disposal) in the next listing.

List four weeks hence. List on 19.08.2021.'

3. A perusal of the case file and the submissions of both learned counsel bring to light that this is a typical suit for specific performance qua a sale agreement dated 28.12.2005 (Ex.A1). After full contest, trial Court decreed the suit by judgment and decree dated 14.02.2018, defendant carried the matter in appeal by way of a regular first appeal under Section 96 of 'The Code of Civil Procedure, 1908' ('CPC' for the sake of brevity) and the first Appellate Court by judgment and decree dated 25.02.2019 dismissed the first appeal confirming the judgment and decree of the trial Court. The defendant is thus before this second appeal Court vide captioned main second appeal.

4. At the time of admission of main second appeal, Hon'ble predecessor judge has granted an order of interim stay on 20.09.2019 and the order reads as follows:

'There will be an order of interim stay of execution of sale deed until further orders.

2. Notice to the respondent returnable by 21.10.2019. Private notice is also permitted.'

5. The aforementioned order of interim stay is now operating.

6. In the light of narrative thus far, if there is a execution of sale deed pursuant to decree in any mode i.e., either by way of launching a execution or in any other mode, it can lead to an irreversible situation. As second appeal has been admitted and this Court is in seizin of the matter, more particularly as the second appeal has been admitted on a question of law turning on Ex.A1 sale agreement, it is only appropriate that both parties await the outcome of captioned second appeal qua execution of sale deed. In this view of the matter, the order of interim stay granted by Hon'ble predecessor judge on 20.09.2019 is made absolute.



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CMP is disposed of in aforesaid manner. There shall be no order as to costs.

-sd/-

22/07/2021

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SUBORDINATE JUDGE
METTUPALAYAM

2 THE V ADDITIONAL DISTRICT AND
SESSIONS JUDGE, COIMBATORE

COPY TO

THE SECTION OFFICER,
V.R. SECTION,
HIGH COURT, MADRAS 104.

Order

in
CMP No.20537 of 2019

IN SA.No.963 of 2019

Date :22/07/2021

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
PA (30/07/2021)