



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Civil Appellate Jurisdiction)

Wednesday, the Twenty Eighth day of July Two Thousand Twenty One

PRESENT

THE HON`BLE MR JUSTICE M. SUNDAR

CMP.No.23711 of 2019

IN SA.No.1090 of 2019

MARIA JOSEPH

[PETITIONER/APPELLANT]

Vs

1 GALIEN IRENE

[RESPONDENTS/RESPONDENT]

2 GALIEN HENRIETTE RUTH MANOGARY,

3 GALIEN CLAUDINE CATHERINE MAIDELY,

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant stay of al further proceeding of the EP NO.51 of 2003 in OS NO.173 of 1988, on the file of the Additional Sub Judge, Puducherry till (CMP No.23711 of 2019) disposal of the above SA.No.1090 of 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 MR.MOHANRAJAN, Advocate for M/S.D.SENTHILKUMAR for the Appellant and of MR.M.DEVARAJ, ADVOCATE on behalf of the Respondents, the court made the following order:-

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

'Mr.M.Mohanrajan, learned counsel representing the counsel on record for sole appellant and Mr.M.Devaraj, learned counsel for three respondents are before this Virtual Court.

2.Captioned second appeal has been admitted by Hon'ble predecessor Judge on 06.11.2019. This Court is informed by the Registry that records of the District Judiciary have



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since been received. This means that captioned second appeal is ripe for final hearing. Learned counsel for respondents is ready to advance final hearing arguments/submissions in captioned second appeal, but counsel representing the counsel on record for appellant requests for an adjournment saying Senior Advocate Mr.A.Thiagarajan is leading him and he is in difficulty.

3. Learned counsel representing the counsel on record for appellant submits that the appellant counsel will be ready for final hearing arguments in the next listing.

List on 10.08.2021.'

2. At the time of admission of main second appeal, Hon'ble predecessor Judge has granted an interim order on 06.11.2019, which reads as follows:

'Though a Caveat has been entered, counsel for the caveator is absent.

2. There will be an order of stay of all further proceedings] in E.P.No.51 of 2003 until further orders.

3. Notice to the respondents returnable by 04.12.2019. Private notice is also permitted.'

3. This Court deems it appropriate to elaborate on the same and say that captioned second appeal arises out of a suit for declaration qua absolute ownership (plaint B schedule property) and for recovery of possession besides mesne profits. After full contest, the suit was dismissed by the trial Court. The non-suited plaintiff carried the matter in appeal, pending appeal plaintiff died, legal heirs continued the appeal and, the first Appellate Court after full contest interfered with the trial Court's dismissal decree and decreed the suit based on which plaintiffs launched Execution Petition in E.P.No.51 of 2003 on the file of Sub-Judge's Court at Pondicherry.

4. In the Execution Petition, there was an Obstrucater, there were applications in this regard, orders were made by execution Court and the same were carried in appeal by the Obstrucater vide separate first appeal being A.S.No.78 of 2018, which came to be dismissed after full contest. The Obstrucater has now carried the matter to this second appeal Court vide captioned main second appeal.

5. As the captioned main second appeal has been admitted, this Court is in seizin of the matter and further proceedings in aforementioned E.P.No.51 of 2003 should necessarily await the outcome of the captioned second appeal, which is now ripe for final



hearing. Therefore, captioned CMP is disposed of as closed saying that interim order granted by Hon'ble predecessor Judge on 06.11.2019 will continue till the disposal of captioned main second appeal preserving the rights of the respondents (plaintiffs in the Courts below / petitioners in the Execution Court) to move this Court, if there is undue delay in disposal of captioned second appeal attributable to appellant/obstructor. There shall be no order as to costs.

-sd/-
28/07/2021
/ TRUE COPY /

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

TO

1 THE II ADDITIONAL DISTRICT JUDGE,
PUDUCHERRY.

2 THE ADDITIONAL SUBORDINATE JUDGE,
PUDUCHERRY.

Order
in
CMP.NO.23711/2019
in
SA.NO.1090/2019

Date :28/07/2021

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
PM (02/08/2021)