



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Monday, the Twenty Sixth day of July Two Thousand Twenty One

PRESENT

THE HON`BLE MR JUSTICE M. SUNDAR

CMP No.24560 of 2019

in S.A.No.1130 of 2019

1 C.ANAND

[PETITIONERS]

2 C.PALANIAMMAL

Vs

N.CHINNUSAMY

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to appeal against the operation of the Judgment and Decree passed in AS No. 29/2018 dt. 12/07/2019 on the file of the Principal District Judge, Namakkal, Namakkal District in partly dismissing the appeal by confirming the Judgment and Decree passed in OS No. 356/2007 dt. 18/01/2018 in part on the file of the Subordinate Judge Court, Namakkal, Namakkal District(in CMP No.24560 of 2019) pending disposal of the above S.A.No.1130 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 S.SARAVANAN, Advocate for the petitioner and of MR.PRAVEEN, Advocate on behalf of the Respondents the court made the following order:-

Mr.S.Saravanan, learned counsel on record for petitioners / appellants and Mr.Praveen, learned counsel representing the counsel on record for lone respondent/respondent are before this Virtual Court.

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

Mr.S.Saravanan, learned counsel on record for two appellants and Mr.Praveen, learned counsel representing the counsel on record for lone respondent in the captioned second appeal are before this Virtual Court.

2. A perusal of the case file brings to light that captioned second appeal has been admitted by Hon'ble predecessor Judge on 18.11.2019 and this Court is



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informed that records of the District judiciary have since been received and the same is before this Court. This means that captioned second appeal is ripe for final hearing. However, learned counsel representing the counsel on record for lone respondent requests for an adjournment stating that he has to organize the papers at his end and make submissions. To be noted, learned counsel for appellants is ready to make submissions.

3. Owing to the request made by learned counsel for sole respondent, captioned second appeal is adjourned by four weeks.

List under the same cause list caption 'FINAL HEARING CASES' on 23.08.2021.'

3. Captioned second appeal arises out of a partition suit. After full contest, trial Court decreed the suit, defendants carried the matter in appeal and the first Appellate Court partly allowed the appeal granting preliminary decree for partition with regard to one item of suit properties alone. The defendants, who were only partly successful in first Appellate Court, are now in second appeal before this Court.

4. This Court is informed that plaintiff has not preferred any second appeal to the knowledge of learned counsel for petitioners/appellants.

5. In the aforesaid backdrop, this Court is also informed by learned counsel for petitioners/appellants that no Execution Petition has been launched to his knowledge.

6. In the light of the narrative thus far, this Court deems it appropriate to dispose of the captioned CMP holding that if an execution petition is launched on the basis of preliminary decree for partition, the proceedings can go on in the Execution Court, but there will be a stay with regard to passing of final decree alone.

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

-sd/-
26/07/2021

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



TO

1 THE PRINCIAL DISTRICT JUDGE,
NAMAKKAL.

2 THE SUBORDINATE JUDGE
NAMAKKAL.

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Order

in
CMP.24560/2019

in S.A.No.1130 of 2019

Date :26/07/2021

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GS 03/08/2021