



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Tuesday, the Twenty Seventh day of July Two Thousand Twenty One

PRESENT

THE HON`BLE MR JUSTICE M.SUNDAR

CMP.NO.25381 OF 2019

IN SA.NO.1162 OF 2019

1 VIMAL KUMAR [PETITIONERS/APELLANTS]

2 VINOTH KUMAR

3 AMBIKA

4 BAKKIAVATHI

5 PUNITH KUMAR

6 MINOR POOJA

D/O LATE BHARATHIDASAN

ANDIPALAYAM, HAMLET OF KEEZHKAARAVARAPATTU,

PANRUTI TK, CUDDALORE DT.

REP. BY HER MOTHER AND GUARDIAN

BAKKIVATHI

Vs

MANGALAKSHMI AMMAL

[RESPONDENT/RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to stay all further proceedings in O.S No.57/2005 on the file of the Sub Court, Panruti pursuant to the judgement and the decree in A.S.No.41/2017 before the Principal District, Cuddalore (In CMP.NO.25381/2019) pending disposal of the above SA.NO.1162/2019

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.T.SEZHIAN, Advocate for the Petitioners/Appellants and of MR.S.GANESH, Advocate for the Respondent/Respondent, the court made the following order:-

Defendants in trial Court are the appellants in the aforementioned second appeal. Lone plaintiff in trial Court is the respondent in the aforementioned main second appeal. Suit is for recovery of money from and out of the estate of one Bahrathydasan



is the central prayer in the trial Court. After full contest, trial Court non suited the plaintiff i.e., dismissed the suit, but on appeal by plaintiff, First Appellate Court allowed the appeal and decreed the money suit. Defendants have filed the aforementioned second appeal.

2. Aforementioned second appeal has been admitted by Hon'ble Predecessor Judge on 18.12.2019 and at the time of admission, in the captioned CMP as the second appeal arises out of a money decree, a conditional order directing deposit of Rs.45,000/- (Rupees forty five thousand only) to the credit of suit in trial Court has been made and the conditional order of interim stay made by Hon'ble Predecessor Judge reads as follows:

'Proceedings dated 18.12.2019

There shall be an order of interim stay on condition that the petitioners shall deposit a sum of Rs.45,000/- (Rupees forty five thousand only) to the credit of O.S.No.57 of 2005 on the file of the Sub Court, Panruti, within a period of eight weeks, failing which the interim order shall stand vacated automatically.

Notice.'

3. Mr.T.Sezhian, learned counsel for petitioners/appellants submits that the aforementioned condition has since been complied. However, Mr.S.Ganesh, learned counsel for respondent/respondent points out that though condition has been complied, deposit has been made belatedly. However, there is no disputation that deposit has been made and the same is now lying qua credit of suit in the trial Court.

4. As condition qua condition for interim stay has been complied, as this Court is now in seizin of main second appeal (the second appeal has been admitted), records have since been received and main second appeal is ripe for final disposal, this Court deems it appropriate to dispose of captioned CMP holding that the order of interim stay in captioned CMP shall continue till the disposal of second appeal and it is open to respondent to take out a suitable application if there is undue delay (attributable to the respondent) in the main second appeal being heard out.

5. CMP disposed of on above terms. There shall be no order as to costs.

-sd/-

27/07/2021

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)

High Court, Madras - 600 104.



TO

1 THE SUBORDINATE JUDGE,
PANRUTI

2 THE PRINCIPAL DISTRICT JUDGE,
CUDDALORE.

3 THE SECTION OFFICER,
VR SECTION,
HIGH COURT, MADRAS - 104.

Order
in
CMP.NO.25381/2019
IN SA.NO.1162/2019

Date :27/07/2021

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