

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Twenty Sixth day of October Two Thousand and
Twenty One
PRESENT

WEB COPY

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CMP(MD) No.5131 of 2021
IN
AS(MD)No.151 of 2021

A.JAGAN RAJA RAJA NICKELSAN ... APPELLANT/PLAINTIFFS

Vs

S.PURUSOTHAMAN ... RESPONDENT/DEFENDANTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to stay all further proceeding in EP No.93 of 2020 in OS No.77 of 2015 on dated 04.07.2019 on the file of IInd Additional District Judge, Thoothukudi pending disposal of the above appeal.

PRAYER IN AS(MD)No.151 of 2021:

To set aside the Judgment and Decree passed in O.S.No.77/2015, on the file of the II Additional District Judge, Thoothukudi, dated 04.07.2019 in so far as it is related to granting the decree for the sum of Rs.19,00,000/- (Nineteen Lakhs) as compensation and allows this appeal.

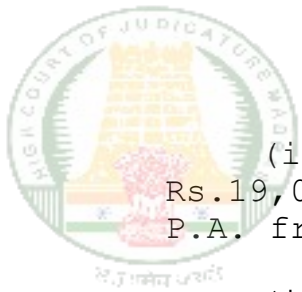
ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.S.MUTHUMALAI RAJA, Advocate for the Appellant and of Mr.N.DILIP KUMAR, Advocate on behalf of the Respondent, the court made the following order:-

The defendant in O.S.No.77 of 2015 on the file of the second Additional District Judge, Thoothukudi is the appellant in this appeal.

2. The prayer in the suit was as follows:-

(I) directing the defendant to pay sum of Rs.14,59,324/- along with interest 12 % per annum over Rs.10,00,000/- from the date of the plaint till the date of realization and

(ii) directing the defendant to pay sum of Rs.6,15,000/- along with interest 12% per annum over Rs.5,00,000/- from the date of the plaint to till the date of realization and



(iii) directing the defendant to pay compensation of Rs.19,00,000/- to the plaintiff along with interest @ 12 % P.A. from the date of plaint to till the date of realization

(iv) award cost of the proceedings and

(v) award such other further reliefs.

3. After a full-fledged trial, by the impugned judgment and decree dated 04.07.2019, the trial Court passed the following decree:-

1.Plaintiff's suit is allowed. to the plaintiff, defendant shall pay Rs.14,59,324/- and for the principal amount of Rs.10,00,000/- shall pay interest @ 6% from the date of filing of the suit till the completion of such payment.

2. Further, to the plaintiff, the defendant shall pay Rs.6,15,000/- and for the principal amount of Rs.5,00,000/- shall pay interest @ 6% from the date of filing of the suit till the completion of such payment.

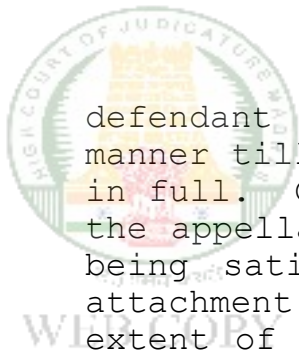
3. Further, to the plaintiff, defendant shall pay Rs.19,00,000/- and upon such amount, shall pay interest @ 6% from the date of filing of the suit till the completion of such payment.

4. To pay the suit cost of Rs.3,08,104/- by the defendant to the plaintiff.

4. The aggrieved defendant has filed this appeal challenging only a portion of a decree pertaining to award of compensation with interest. In other words, Clauses 1 and 2 of the decree remain unchallenged. The challenge is only regarding Clause 3 of the decree.

5. The learned counsel for the appellant made a mention for listing this appeal since the plaintiff had filed E.P.No.93 of 2020 before the second Additional District Judge, Thoothukudi. E.P.No.93 of 2020 is listed for hearing on 25.11.2021. Since Clauses 1 and 2 of the impugned decree have not been challenged, the appellant is obliged to satisfy the same and this Court will not be justified in granting stay of the execution proceedings as far as clauses 1 and 2 are concerned. However, the learned counsel for the appellant states that he will be in a position to satisfy the clauses 1 and 2 within a period of five months from today. The said undertaking is recorded.

6. However, the properties set out in the schedule in E.P.No.93 of 2020 are under attachment. I also restrain the appellant /



defendant from alienating or encumbering the said properties in any manner till the clauses 1 and 2 of the impugned decree are satisfied in full. Once clauses 1 and 2 are satisfied, a memo can be filed by the appellant before the executing Court. Upon the executing Court being satisfied about the satisfaction of clauses 1 and 2, the attachment now made will stand raised and it will remain only to the extent of satisfying clause 3 alone. Such a self working order is passed considering the interest of justice and taking note of the offer made by the learned counsel for the appellant.

7. Subject to the above conditions, the impugned judgment and decree will stand stayed. This Miscellaneous Petition is disposed of.

sd/-
26/10/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE IInd ADDITIONAL DISTRICT JUDGE,
THOOTHUKUDI.

+1. C.C. to Mr.N.DILIPKUMAR, Advocate SR.No.7489

ORDER

IN

CMP(MD) No.5131 of 2021

IN

AS(MD)No.151 of 2021

Date :26/10/2021

SA/JM/SAR.2/29.10.2021/3P/3C