



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Civil Appellate Jurisdiction)

Monday, the Eighteenth day of January Two Thousand and Twenty One

WEB COPY

PRESENT

The Hon'ble Mr.Justice R.SUBRAMANIAN

CMP(MD)Nos.1637 of 2019 & 8072 of 2017

in

SA(MD)No.380 of 2017

KAY PEE YES TRUST,
KODAIKANAL .
THROUGH ITS TRUSTEES

1 M.L.BRIGHT
2 VIMALA BRIGHT
3 ANGEL JOHNSON
4 MOURIN JEYARAJ
5 KARUNA DAVID
6 THEEPTI JEYARAJ
7 JEYA SURESH JEYARAJ

... PETITIONERS/RESPONDENTS/
RESPONDENTS (in CMP(MD).1637/2019)

...RESPONDENTS/RESPONDENTS
(in CMP(MD).8072/2017)

Vs

VIJAYA BOOPATHY

... RESPONDENT/PETITIONER/
APPELLANT (in CMP(MD).1637/2019)

...PETITIONER/APPELLANT/
(in CMP(MD).8072/2017)

Prayer in CMP(MD) No.1637/2019:

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to vacate the stay order granted by this Hon'ble Court in its order dated 30.08.2017 made in CMP(MD) No.8072/2017 in SA(MD) No.380 / 2017.

Prayer in CMP(MD) No.8072/2017:

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to grant an order of STAY all further proceedings of the decree and judgment passed dated 28/09/2016 made in A.S.No. 34 of 2012 on the file of the Additional Sub Court, Dindigul confirming decree and judgment passed dated 05/03/2012 made in O.S.No. 655 of 2006 on the



file of the Principal District Munsif Dindigul, till disposal of the Second Appeal.

Prayer in SA(MD) No.380/2017:

Second Appeal filed may be pleased to set aside the judgment and decree passed dated 28.09.2016 made in A.S.No.34 of 2012 on the file of the Additional Sub Court, Dindigul confirming the judgment and decree passed dated 05.03.2012 made in O.S.No.655 of 2006 on the file of the Principal District Munsif, Dindigul and allowed the above said Second Appeal.

ORDER : These petitions coming up for orders on this day, upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Mr.K.HEMAKARTHIKEYAN, Advocate for the petitioners in CMP(MD) No.1637/2019 and Mr.G.GOMATHI SANKAR, Advocate for the petitioner in CMP(MD) No.8072/2017 and on behalf of the Respondent in CMP(MD) No.1637/2019, the Court made the following order:-

This application has been filed seeking to vacate the order of stay granted in CMP(MD) No.8072 of 2017 on 30.08.2017. The Decree challenged is one for declaration and recovery of possession. The appeal has been admitted.

2. If the stay granted is vacated and the plaintiff/decreed holder is allowed to proceed with execution the appeal will become infructuous. Hence, I do not think that it will be in the interest of justice, to vacate the stay granted. Therefore, CMP(MD) No.1637 of 2019 is dismissed. CMP(MD) No.8072 of 2017 is allowed. Stay granted by this Court earlier is made absolute.

3.Registry is directed to post the appeal for final hearing on 15.02.2021, positively.

sd/-
18/01/2021

/ TRUE COPY /

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

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/ litigant concerned.



TO

1. THE ADDITIONAL SUBORDINATE JUDGE,
DINDIGUL.
2. THE PRINCIPAL DISTRICT MUNSIF,
DINDIGUL.

+1CC to Mr.G.GOMATHI SANKAR, Advocate (SR-292[I] dated 19/01/2021)

ORDER

IN

CMP (MD) No.1637/2019 and

CMP (MD) No.8072/2017 in

SA(MD) No.380 of 2017

Date :18/01/2021

VRN

SRS/SMA/SAR-III/21.01.2021/3P/4C