



C.R.P(PD).No.998 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.R.P (PD).No.998 of 2020

and

C.M.P.No.5404 of 2020

1.L.R.Palanisamy
2.L.P.Sakthivel
3.L.P.Boominathan

... Petitioners

Vs.

1.L.R.P.Subbaiyan
2.S.Venkatachalam
3.S.Viswanathan
4.Eswari
5.Chinnammal
6.Kumudha
7.Gomathi

... Respondents

Prayer: This Civil Revision Petition had been filed by the Petitioners under Article 227 of Constitution of India seeking to set aside order passed by the learned I - Additional District Munsif, Erode dated 10.01.2020 and made in I.A.No.1 of 2019 in O.S.No.246 of 2015.

For petitioners : Mr.T.Gowthaman

For Respondents : No Appearance



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ORDER

This Civil Revision Petition had been filed seeking to set aside order passed by the learned I - Additional District Munsif, Erode dated 10.01.2020 in I.A.No.1 of 2019 in O.S.No.246 of 2015.

2. When the case came up for hearing, the name of the parties alone is printed in the cause list. The Respondent had not engaged any Counsel. It is the submission of the learned Counsel for the Petitioner that already stay had been granted. This is the second round of litigation. Therefore, the Petitioner herein had filed the Petition under Section 10 of C.P.C before the trial Court and the same was dismissed by the learned I - Additional District Munsif, Erode. Against which this Petition had been filed by the Defendants in the Suit. Already the parties to the dispute had agitated their right in O.S.No.388 of 2014, against which A.S.No.10 of 2014 is filed. In the Appeal, Decree was passed in favour of the Petitioner herein as originally Plaintiff in O.S.No.388 of 2014 was altered thereby, granting Declaration to the Defendants to a particular portion of the property. Taking advantage of Declaration to the particular portion of the property in favour of the Defendants in the Suit in which second Appeal is pending, the Defendants in the Suit in O.S.No.388 of



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2014 had filed the Suit in O.S.No.246 of 2015. Therefore, Defendants in the Suit O.S.No. 246 of 2015 had filed I.A.No.1 of 2019 under Section 10 of C.P.C seeking stay of proceedings till the Second Appeal is disposed of by the Hon'ble High Court. The Petition filed by the Defendants in O.S.No.246 of 2015 was dismissed by the learned I - Additional District Munsif, Erode, against which this Civil Revision Petition is filed.

3. Already the learned Counsel for the Petitioners herein had argued at length. It is recorded by the then learned Single Judge on 21.06.2021. Till date even after the service of notice to the Respondents herein by the Petitioners and also through the learned Counsel who represents the Respondents before the Trial Court in O.S.No.246 of 2015, the Respondents herein had not engaged any Counsel and had not contested this Petition.

4. Therefore, based on the submission of the learned Revision Petitioner this Civil Revision Petition is allowed. The order passed by the learned I - Additional District Munsif, Erode, dated 10.01.2020 is set aside, the Petition in I.A.No.1 of 2019 is allowed. All the proceedings in



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O.S.No.246 of 2015 are stayed till the Second Appeal No.990 of 2016 and S.A.No.991 of 2016 are disposed of by this Court. No costs. Consequently, connected miscellaneous Petition is closed.

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Index : Yes / No

Internet : Yes / No

Speaking Order/Non-Speaking Order
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SATHI KUMAR SUKUMARA KURUP, J.

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and

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