



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Wednesday, the Sixth day of April Two Thousand Twenty Two

PRESENT

THE HON`BLE MR.JUSTICE S.S.SUNDAR

CMP.Nos.5313 of 2022 AND 22378 of 2018

IN SA.No.800 of 2018

SHANMUGAPRIYA

[PETITIONER IN CMP.No.5313 of 2022 &
1st RESPONDENT IN CMP.No.22378/2018]

Vs

1 K.SAKTHIVEL

[1 TO 4 RESPONDENTS IN CMP.No.5313/2022
& 1 TO 4 PETITIONERS IN CMP.No.22378/2018]

2 K.P.RAMASAMY

3 A.MURUGAN

4 P.RAMAMOORTHY

5 MINOR MATHIN,
(REP.BY HIS PATERNAL
GRANDMOTHER REVATHY),
S/O LATE T.PERIYASAMY,

[5 AND 6 RESPONDENTS IN CMP.No.5313/2022
& 2 AND 3 RESPONDENTS IN CMP.No.22378/2018]

6 T.REVATHY,
W/O LATE S.K.THANGAVEL,

BOTH ARE RESIDING AT,
PILLAIARKOIL STREET,
SELLIPALAYAM VILLAGE,
K.N.PALAYAM, SATHYAMANGALAM TALUK,
ERODE DISTRICT.

(i)Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Vacate the interim order granted in C.M.P.No.22378 of 2018 dated 13.12.2018 in S.A.No.800 of 2018 on the file of this Hon'ble Court by dismissing the stay petition (IN CMP.No.5313 of 2022) and



(ii) To stay the operation of the Judgment and Decree dated 13/04/2017 made in A.S.No.10 of 2016 on the file of the III Additional District and Sessions Court, Gobichettipalayam, confirming the Judgment and Decree dated 12/02/2016 made in O.S.No.187 of 2010 on the file of the Sub Court, Sathyamangalam (IN CMP.No.22378 of 2018) pending disposal of this SA.No.800 of 2018.

Order : These petitions coming on this day for hearing upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.D.GOPAL, Advocate for the Petitioner in CMP.No.5313 of 2022 and 1st Respondent in CMP.No.22378/2018 and of MR.D.R.ARUN KUMAR, Advocate for the 1 to 4 Respondents in CMP.No.5313/2022 and 1 to 4 Petitioner in CMP.No.22378/2018, the court made the following order:-

- (1) CMP.No.5313/2022 is filed to vacate the interim order granted by this Court in CMP.No.22378/2018 in SA.No.800/2018 on 13.12.2018.
- (2) The Second Appeal is filed by the defendants 3 to 6 in the suit in OS.No.187/2010, as against the judgments and decrees of the Courts below, granting a decree for partition and separate possession in favour of the plaintiff/1st respondent.
- (3) Though this Court has granted an interim order, granting stay of the operation of the judgments and decrees of the Courts below, it is the grievance of the petitioner/plaintiff in the vacate stay petition that she is unable to enjoy the fruits of the decree despite the concurrent judgments and decrees of the Courts below. It is further stated that in view of the interim stay granted, all further proceedings are stayed and therefore, the petitioner/plaintiff is unable to move the Lower Court for passing of final decree.
- (4) Having regard to the facts narrated in the affidavits filed in support of the miscellaneous petitions in CMP.No.5313/2022 and CMP.No.22378/2018, this Court is inclined to dispose of the above miscellaneous petitions by passing the following order.
- (5) **The order of interim stay granted on 13.12.2018 is modified and confined in respect of passing of final decree alone. It is made clear that other proceedings shall go on.**
- (6) **CMP.No.5313/2022 is disposed of with a direction to the Trial Court that further proceedings shall go on except passing of final decree.**



(7)

Post the Second Appeal for final hearing during **first week of June 2022.**

WEB COPY

-sd/-
06/04/2022
/ TRUE COPY /

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

TO

1 THE III ADDITIONAL DISTRICT
AND SESSIONS JUDGE,
GOBICHETTIPALAYAM.

2 THE SUBORDINATE JUDGE
SATHYAMANGALAM.

C.C. to M/S.D.GOPAL, Advocate SR.NO.2621/2022.

Order
in
CMP.Nos.5313 of 2022 AND 22378 of 2018

IN SA.No.800 of 2018

Date :06/04/2022

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
VC(19/12/2018)
TP(08/04/2022)