



C.R.P.(NPD) No.1766 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.1766 of 2022

and

C.M.P.No.8885 of 2022

Felix Rajkumar

... Petitioner

Vs.

1.Coimbatore Diocese Society
Represented by its Director,
Bishop House, Post Box No.6,
Periyakadi, Veedi, Town Hall,
Coimbatore-641 001.

D.Vincent (Died)

2.Joan of ATC Arul
3.Roberto Rolario
4.VenilaInbarasi

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the Fair and Decreetal Order dated 22.04.2022 passed in E.P.No.27 of 2019 in O.S.No.359 of 2000 on the file of the District Munsif Court, Pollachi and prays the same may kindly be set aside.

For Petitioner : Mr.N.C.Ashok Kumar



ORDER

This Civil Revision Petition has been preferred challenging the order of the learned District Munsif, Pollachi dated passed in E.P.No.27 of 2019 in O.S.No.359 of 2000.

2. The revision petitioner is the judgment debtor against whom the decree for recovery of possession was passed in O.S.No.359 of 2000. The other suit in O.S.No.303 of 2000 was preferred by the revision petitioner for the relief of permanent injunction and the same was dismissed through a common judgment passed in O.S.No.303 of 2000 and O.S.No.359 of 2000. In order to execute the decree got in favour of the respondents, he filed execution proceedings in E.P.No.27 of 2019 and in which "delivery" has been ordered on 22.04.2022. Aggrieved over that the revision petitioner has preferred this revision.

3. The learned counsel for the respondent submitted that the revision petitioner has challenged the decree passed against him in O.S.No.359 of 2000 by way of filing an appeal in A.S.No.36 of 2019 before the Sub-Court, Pollachi. He would further submit that due to pandemic situation and also



because of the vacancy of the officer of the Court, he could not move his petition filed for staying the operation of the decree pending the appeal and in the meanwhile, delivery has been ordered and that would affect the scope of the appeal proceedings.

4. On perusal of e-Court records, it is seen that an appeal preferred by the revision petitioner is pending in A.S.No.36 of 2019 and it stood adjourned for several hearings due to lockdown and thereafter, for awaiting the correct records. So, it is not wrong on the part of the revision petitioner to state that he could not conduct his stay petition before the Appellate Court. Since the appeal is pending, if the property is delivered in pursuance to the impugned order that would defeat the ends of justice. Since the revision petitioner has got right for First Appeal, the impugned order or granting delivery can be stayed till the revision petitioner, moves the Appellate Court in order to get stay of operation of the decree.

5. Hence, the Civil Revision Petition is disposed by granting the relief of stay of the order of delivery alone passed in E.P.No.27 of 2019 in O.S.No.359 of 2000 till the revision petitioner moves the Appellate Court in



C.R.P.(NPD) No.1766 of 2022

order to get stay of operation of the decree. No Costs. Consequently,
connected civil miscellaneous petition is closed.

WEB COPY

08.06.2022

Index : Yes/No
Speaking Order : Yes / No
ssn

To

1. The District Munsif Court,
Pollachi.
2. The Section Officer,
VR Section, Madras High Court,
Chennai.



WEB COPY



C.R.P.(NPD) No.1766 of 2022

R.N.MANJULA, J.,

ssn

**C.R.P.(NPD).No.1766 of 2022
and
C.M.P.No.8885 of 2022**

08.06.2022