



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

Thursday, the Twenty First day of April Two Thousand and Twenty Two

PRESENT

The Hon`ble Ms.Justice R.N.MANJULA

CMP (MD) No.2824 of 2022
IN
AS (MD) No.70 of 2022

1 A.VELMURUGAN
2 V.UMAMAHESWARI

... PETITIONERS/APPELLANTS

Vs

C.VENKADAKRISHNAN

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to stay the operation of the judgment and decree dated 21-11-2019 passed in O.S. No.101 of 2017 on the file of the 2nd Additional District and Sessions Court, Thoothukudi pending disposal of the main appeal suit.

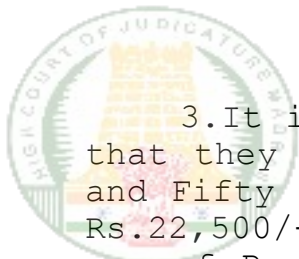
PRAYER IN AS (MD) No.70 of 2022:

To set aside the judgment and decree dated 21.11.2019 passed in O.S.No.101 of 2017 on the file of the 2nd Additional District Court, Thoothukudi and dismiss the suit in O.S.No.101 of 2017 on the file of the 2nd Additional District Court, Thoothukudi.

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 M/S.N.PRAGALATHAN, Advocate for the petitioner and of MR.S.MUTHUMALAI RAJA, Advocate on behalf of the Respondent, the court made the following order:-

This petition is filed to stay the operation of the judgement and decree dated 21.11.2019 passed in O.S. No. 101 of 2017 on the file of the II Additional District and Sessions Court, Thoothukudi.

2.The petitioners / appellants were the defendants in the suit. The suit has been filed for the relief of specific performance and the same was decreed in favour of the plaintiff. The defendants have preferred the appeal. Pending appeal, they have sought an order of stay.



3.It is seen from the written statement filed by the defendants that they borrowed only a sum of Rs.7,50,000/- (Rupees Seven Lakhs and Fifty Thousand only) as loan after deduction of the interest of Rs.22,500/- (Rupees Twenty Two Thousand and Five Hundred only), a sum of Rs.7,27,500/- (Rupees Seven Lakhs Twenty Seven Thousand and Five Hundred only) was given and they are liable to repay the said amount. They further stated that they did not have any intention to sell the suit properties and the agreement was executed only by way of security for the loan amount availed by them.

4.The learned trial Judge was not convinced about the defence taken by the petitioners and proceeded to decree the suit. Now it is submitted that the execution proceedings have been initiated and they are at the risk of losing the property without seeing the decision in the first appeal.

5.Considering the present situation, I feel that it is appropriate to grant an order of stay on condition that the petitioners / defendants shall deposit the admitted amount of Rs.7,27,500/- (Rupees Seven Lakhs Twenty Seven Thousand and Five Hundred only) to the credit of O.S. No. 101 of 2017 within a period of one week from today.

6.Accordingly, this petition is allowed.

sd/-

21/04/2022

/ TRUE COPY /

22/04/2022

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

TO

THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THOOTHUKUDI DISTRICT.

+1 CC TO MR.N.PRAGALATHAN, ADVOCATE (SR-3717 dated 22.04.2022)

ORDER
IN
CMP(MD) No.2824 of 2022
IN
AS(MD) No.70 of 2022
Date :21/04/2022