



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

Thursday, the Twenty Fourth day of February Two Thousand and Twenty
Two

PRESENT

The Hon`ble Mr.Justice R.SUBRAMANIAN
and
The Hon`ble Mr.Justice N.SATHISH KUMAR

C.M.P (MD)No.10058 of 2021
in
A.S (MD)No.288 of 2021

K.R.SAKTHIVEL RAJA

... PETITIONER/ APPELLANT

Vs

1 P.S.BALASUBRAMANIAN
2 P.S.KANNAN
3 P.S.RAJENDIRAN
4 P.S.GNANESWARAN

... RESPONDENTS/ RESPONDENTS

(THE 3RD PLAINTIFF IS REPRESENTED
THROUGH HIS POWER AGENT THE 2nd
PLAINTIFF)

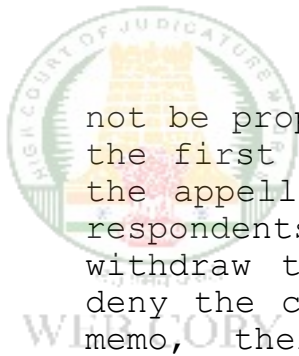
Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to grant an order of STAY of all further proceedings of the judgment and decree passed in OS No. 60 of 2017 on the file of the Learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur dated 27.07.2021 pending disposal of the above Appeal.

PRAYER IN A.S(MD)No.288 of 2021:

To set aside the Judgment and Decree passed in O.S.No.60 of 2017 on the file of the Learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur dated 27.07.2021 by allowing this Appeal.

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 MR.SRICHARAN RENGARAJAN, Advocate for Mr.P.MAHENDRAN, Advocate for the petitioner and of MR.A.SIVAJI, Advocate on behalf of the Respondents, the court made the following order:-

The decree under challenge in this appeal is one for possession of the land. Admittedly, Execution Proceedings are pending. It will



not be proper to allow the execution of a decree for possession when the first appeal is pending before this Court. It is claimed that the appellant had surrendered the possession. To that effect, the respondents have filed a memo before the Executing Court seeking to withdraw the execution proceedings. The appellant would strongly deny the claim that he had surrendered the possession. Except the memo, there is no evidence to show that the appellant had surrendered the possession to the respondents. Rule 2(3) of Order 21 prohibits a Court from recognising any payment or adjustment of a decree out side Court unless it is certified under Sub Rule 1 of Rule 2 of Order 21.

2. Hence, there will be an order of interim stay of execution of the decree in O.S.No.60 of 2017 till the disposal of the appeal on condition that the petitioner deposits a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) to the credit of suit in O.S.No.60 of 2017, on the file of the Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, within a period of six (6) weeks from today, failing which, stay will stand automatically vacated.

sd/-
24/02/2022

/ TRUE COPY /

/ /2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

+1 CC to MR.P.MAHENDRAN, Advocate (SR-1504[I] dated 25/02/2022)

ORDER
IN
C.M.P (MD) No.10058 of 2021
in
A.S (MD) No.288 of 2021
Date :24/02/2022

MK/PN/SAR.IV/03.03.2022/2P/3C