



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

Monday, the Twenty Eighth day of March Two Thousand and Twenty Two

PRESENT

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

**CMP(MD) No.10945 of 2021
in
AS(MD) No.308 of 2021**

1 EMANUVEL JOSEPH MARTIN

2 WILLIAM GEORGE

... PETITIONERS/APPELLANTS

Vs

1 PHILOMINAL

2 ROSLIN DAISY RANI

3 JOHNSI RANI

4 JOHN PETER

5 CHARLES LEO

... RESPONDENTS/RESPONDENTS

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 impugned judgment and decree by the Learned III Additional District Judge, Tirchirappalli dated 13-09-2021 made in O.S.No.135 of 2013 till the disposal of this first appeal.

Prayer in AS(MD). 308/ 2021 :

To set aside the impugned judgment and decree dated 13-09-2021 made in O.S.No.135 of 2013 on the file of the III Additional District Judge, Tirchirappalli thereby dismissing the suit in toto and allow the appeal as prayed for.

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 and none appeared either in person or by an Advocate on behalf of the petitioners and respondents, the Court made the following order:-



The appellants are the defendants 2 and 4 in the suit. The suit has been filed by the respondents / plaintiffs 1 to 3 for partition. The learned trial Judge has passed a preliminary decree for partition and the petition was filed to stay the operation of the judgement and decree. Notice to the respondents served in the main appeal itself. No counter affidavit has been filed. Since the preliminary decree was filed for partition, the stay can be granted in respect of passing of the final decree alone by allowing the other proceedings to go on.

2. Hence, this Petition is allowed and the passing of the final decree alone is stayed and other proceedings shall go on.

sd/-

28/03/2022

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

TO

THE III ADDITIONAL DISTRICT JUDGE, TIRUCHIRAPPALLI.

ORDER

IN

CMP(MD) No.10945 of 2021
in

AS(MD) No.308 of 2021

Date :28/03/2022

SS/JM/SAR:II/01.04.2022 : 2P/2C