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C.M.P.No.13125 of 2023

in

A.S.No.381 of 2023

R.SUBRAMANIAN, J.

and

R.KALAIMATHI, J.

The petitioner seeks stay on execution of the decree, which is one for partition. Though normally, we would grant stay on passing of final decree, we do not find even a *prima facie* case in favour of the appellant to enable us to grant stay of passing of final decree.

2.The suit is filed for partition on the basis of a sale deed executed by the Power of Atroney in favour of the defendants 2 and 3 in the year 2016. Though it is claimed in the written statement that both the sale deed dated 09.02.2016 and Power of Attorney dated 31.12.2015, which are registered instruments were brought about by undue influence, the 2nd defendant who is an Executant of Power of Attorney has not chosen to challenge the sale deed or the Power of Attorney. The 1st defendant, who is son of the 2nd defendant filed a written statement stating that the 2nd defendant was taken to the Registrar Office by the 3rd defendant and the plaintiff and these documents were obtained. Though the 2nd defendant was alive till 2019, almost three years from the date of filing of the suit, she has not chosen to challenge the said documents. Hence, we dismiss the stay petition as devoid of merits.

(R.S.M., J.) (R.K.M., J.)

18.07.2023

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