



WEB COPY



C.M.P.No.27257 of 2023

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in

S.A.No.861 of 2023

P.T.ASHA, J.,

The plaintiffs whose decree for recovery of possession granted by the learned Subordinate Judge, Jayakondam, in O.S.No.4 of 2017 was reversed by the learned Additional District and Sessions Judge, Ariyalur, in A.S.No.18 of 2017 have filed this Second Appeal.

2. The Second Appeal has been admitted by this Court. The plaintiffs as the appellants have filed this petition for stay of the common judgment passed in A.S.No.18 of 2017 and A.S.No.6 of 2019. A.S.No.6 of 2019 has been filed, challenging the judgment and decree passed in O.S.No.7 of 2017. O.S.No.7 of 2017 has been filed by the respondents herein for an injunction. The suit in O.S.No.7 of 2017 has been dismissed which has been confirmed by the Additional District Sessions Judge by judgment and decree in A.S.No.6 of 2019.

3.The appellant has not challenged the judgment and decree in A.S.No.6 of 2019 and the appellant has not filed any petition for



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suspending the judgment and decree granted but seeks to stay the common judgment. It is the decree that is executable and the prayer for staying the judgment appears to be totally misconceived.

4.Further, the appeal has been filed challenging the judgment and decree which reverses the petitioners' decree for recovery of possession. Since the decree has been reversed, there is no decree that becomes executable and therefore, the petition for stay is redundant and therefore, this stay petition stands dismissed.

5.Further, there is no common judgment and decree that is passed and it is only the judgment which is common and decree is passed separately in each appeals. Further, without challenging the judgment and decree in A.S.No.6 of 2019, the appellant cannot pray for interim orders against that judgment and decree.

Accordingly, this stay petition stands dismissed.

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