



C.M.P.No.27264 of 2023
in S.A.No.216 of 2020

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P.B.BALAJI, J.

The above Civil Miscellaneous Petition has been filed seeking stay of the proceedings in E.P.No.195 of 2020 on the file of Subordinate Court, Poonamallee.

2. The Learned Counsel for the petitioners/appellants would state that at the time of admission of the above Second Appeal, an interim order was granted by this Court on 25.02.2020. Subsequently, in and by order dated 20.09.2023, the interim order granted was extended till 18.10.2023. However, the Execution Court has passed an order dated 19.08.2023 as if the interim order granted was not in force as on that date and consequently, directed delivery to be effected. It is seen that subsequently, a memo has been filed by the judgment debtor stating that the Hon'ble Court granted stay till 18.10.2023 and recording the said memo, the Execution Court has extended time for delivery Batta, returnable by 18.12.2023. Under such circumstances, the above application has been necessitated, seeking stay of the proceedings.



WEB COPY 3. I have heard Mr.S.Sai Shankar, Learned Counsel for the appellants/petitioners. The contesting respondents who are the decree holder have not chosen to enter appearance till date.

4. I find from the order passed by this Court that initially an interim order was granted without limiting the date of the expiry of the interim order. However, subsequently, on 20.09.2023, this Court has passed an interim order limiting the interim order upto 18.10.2023 and directed the Second Appeal to be listed on 18.10.2023. However, despite the said order, the Execution Court has passed an order even prior to 18.10.2023 i.e., 19.08.2023 as if the interim order granted on 25.02.2020 was not extended and there was no stay as on date. Recording the same, the Execution Court has ordered to effect delivery and directed Batta to be filed in a week. The Execution Court has failed to see that this Court had extended the interim order till 18.10.2023 and therefore, the order directing the delivery to be effected on 09.08.2023 is in clear violation of the interim order of this Court dated 20.09.2023.

5. Though, the Learned Counsel has come up with a fresh



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application for stay, I do not deem it necessary to pass an interim order afresh. The fact remains that even at the time of admission of the Second Appeal, this Court was pleased to grant an interim order and the same was also extended without any time limit. Thereafter, on 20.09.2023, this Court limited the interim order upto 18.10.2023 and according to the Learned Counsel for the appellant even though he has given a letter to the Registry to have the matter listed, the Second Appeal has not been listed.

6. Considering that the Execution Court has ordered delivery during the subsistence of the interim order passed by this Court, the said order will have no effect and has to necessarily be recalled and set aside.

7. The interim stay granted in C.M.P.No.4470 of 2020 is extended for a further period of eight weeks. In the meantime, the appellants/petitioners herein shall take steps for substituted service on the 1st respondent.



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P.B.BALAJI, J.

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8. Accordingly, this Civil Miscellaneous Petition No.27264 of 2023 is closed and no order is necessary in this application for granting fresh stay.

9. Post this matter after eight weeks.

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