



A.S.No.23 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS. JUSTICE R.KALAIMATHI**

**A.S.No.23 of 2020
and
C.M.P.No.30 of 2020**

S.Saroja

..Appellant

Vs.

M.Subbathal

..Respondent

Prayer:

Appeal filed under Section 96 of C.P.C. against the judgment and decree dated 05.12.2017 passed in O.S.No.213 of 2016 on the file of the I Additional District and Sessions Judge, Tiruppur, Tiruppur District.

For Appellant : Mr.C.Prakasam

For Respondent : Mr.A. Thiyagarajan



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J U D G M E N T

WEB COPY (The order of the Court was made by Mrs.J.Nisha Banu,J.)

Today, the matter is listed under the caption 'Miscellaneous Petitions-AS'.

2. The aforesaid Civil Miscellaneous Petition has been filed to grant stay of all further proceedings pursuant to the judgment and decree dated 05.12.2017 passed in O.S.No.213 of 2018 on the file of I Additional District and Sessions Judge, Tiruppur, Tiruppur District, pending disposal of the appeal.

3. The Appeal has been filed challenging the judgment and decree dated 05.12.2017 passed in O.S.No.213 of 2018 on the file of I Additional District and Sessions Judge, Tiruppur, Tiruppur District, in which, a preliminary decree was passed directing the defendant/appellant herein to pay Rs.28,12,000/- with interest at the rate of 9% per annum from the date of plaint (30.08.2016) till the date of payment on the principal amount with cost of the suit within three months, in default of payment on or before 10.03.2018, the plaintiff/respondent herein is



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directed to bring the mortgage property described in the schedule for sale and realize the decree amount through sale proceeds.

4. When the civil miscellaneous petition is taken up for hearing, it is stated by the learned counsel appearing for the respondent/plaintiff that though the petitioner/appellant has filed the miscellaneous petition seeking stay of the preliminary decree dated 05.12.2017, a final decree has already been passed on the same as early as on 23.02.2021 and subsequently, Execution Petition has also been filed in E.P.No.76 of 2021 and an order of delivery was passed on 19.10.2022. Therefore, he would state that nothing survives for adjudication in the stay petition as well as in the Appeal and prays for dismissal of the appeal. Learned counsel for the respondent has also filed a typed set of paper containing a copy of the final decree and judgment dated 23.02.2021 passed in I.A.No.221/2019 in O.S.No.213 of 2016.

6. In view of the above submission made by the learned counsel for the respondent and since a final decree was passed in the above suit, we are of the view that nothing survives for further adjudication in the



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present appeal. Accordingly, the Appeal stands dismissed. Consequently,
the connected miscellaneous petition is closed. No costs.

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(J.N.B,J.) (R.K.M., J.)
19.08.2024

Index : Yes / No
Internet : Yes
vsi

To

I Additional District and Sessions Judge,
Tiruppur,
Tiruppur District.



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and
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