



CMP(MD) No.5720 of 2024

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

Monday, the Ninth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CMP(MD) No.5720 of 2024

IN

CMP(MD) No.2862 of 2024

IN

SA(MD) No.114 of 2024

1 KANAGAVEL

2 KRISHNAKUMAR

3 SANJAY GANDHI

... PETITIONERS/RESPONDENTS 1 TO 3
/RESPONDENTS 1 TO 3

Vs

1 PERIYASAMY

... 1ST RESPONDENT/PETITIONER
/APPELLANT

2 STATE OF TAMILNADU

THROUGH DISTRICT COLLECTOR,
TIRUNELVELI.

3 NARAYANAPERUMAL

... RESPONDENTS 2, 3/RESPONDENTS 4 & 5
/RESPONDENTS 4 & 5

Civil Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to Vacate the order of Interim Stay granted by this Honourable Court in the above Second Appeal in CMP(MD). No.2862 of 2024 in SA(MD). No.114 of 2024 dated 29.02.2024.



CMP(MD) No.5720 of 2024

Prayer in CMP(MD). 2862/ 2024 :

To stay all further proceedings pursuant to the Judgment and Decree dated 23.02.2018 passed in O.S.No.85 of 2012 on the file of the Principal Sub Judge, Tirunelveli as confirmed in the Judgment and decree dated 24.02.2021 passed in A.S.No. 132 of 2018 on the file of the I Additional District Judge, Tirunelveli, pending disposal of the Second Appeal.

Prayer in SA(MD). 114/ 2024 :

To set aside the Judgment and decree dated 24.02.2021 passed in A.S.No. 132 of 2018 on the file of the I Additional District Judge, Tirunelveli, Confirming the Judgment and Decree dated 23.02.2018 passed in O.S.No.85 of 2012 on the file of the Principal Sub Judge, Tirunelveli and to allow the Second Appeal and thus render justice.

ORDER : This Civil Miscellaneous 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 MR.G.PRABHU RAJADURAI, Advocate for the petitioner and none appeared either in person or by an advocate on behalf of the 1st Respondent and MR.A.BASKARAN, Additional Government Pleader on behalf of the 2nd Respondent and MR.M.P.SENTHIL, Advocate on behalf of the 3rd Respondent, the court made the following order:-

The defendants have filed the second appeal as against the concurrent findings of the Courts below. The respondent / plaintiff has filed a suit in OS.No.85 of 2002 before the Principal Sub Court, Tirunelveli seeking a compensation of Rs.2 lakh with costs and it was decreed in his favour by judgment dated 23.02.2018. As against which an appeal in AS.No.132 of 2018 was filed before the I Additional and District Court, Tirunelveli and it was dismissed by judgment and decree dated 24.02.2021. As against the concurrent findings of the Courts below, this second appeal is filed.

2. This second appeal was listed for admission on 29.02.2024, but it was not



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admitted. However notice was ordered and an order of interim stay was granted considering the request of the appellant that a sum of Rs.Two lakh has been awarded as compensation.

3.The respondents / plaintiffs has filed the present miscellaneous petition to vacate the interim order dated 29.02.2024. This miscellaneous petition was listed for hearing on 30.08.2024, but there was no representation for the respondents/appellants. Even today the learned Counsel for the respondents /appellants is not ready with the case and seeks an adjournment.

4.This second appeal is not even admitted. The Courts below have concurrently found that the appellants are liable to pay the compensation to the petitioners / respondents for the malicious criminal prosecution. Since the learned Counsel for the appellants seeks time for final disposal of the second appeal post the second appeal for final disposal on 23.09.2024 immediately after admission.

5. In view of the above, this petition is allowed. The interim order dated 29.02.2024 stands vacated.

sd/-
09/09/2024

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/09/2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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1 THE I ADDITIONAL DISTRICT JUDGE, TIRUNELVELI.

2 THE PRINCIPAL SUBORDINATE JUDGE, TIRUNELVELI.

+1. C.C. to M/S.G.PRABHU RAJADURAI Advocate SR.No.11153[I] Dated
11/09/2024

ORDER

IN

CMP(MD) No.5720 of 2024

IN

CMP(MD) No.2862 of 2024

IN

SA(MD) No.114 of 2024

Date :09/09/2024

RS/SG/SAR-(19.09.2024) 4P 4C

Madurai Bench of Madras High Court is issuing
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