



C.R.P(MD)No.2598 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

C.R.P(MD)No. 2598 of 2022
and
C.M.P(MD)No.12716 of 2022

1.V.Peter Jayapathi

2.V.Justin Rabin

...Petitioners

Vs.

A.T.John Rajan

....Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C., to call for the records relating to the order dated 27.01.2021 in E.P.No.15 of 2018 in O.S.No.170 of 2007 on the file of the Court of the Subordinate Judge, Eraniel, Kanyakumari District, set aside the same and allow the same.

For Petitioners : Mr. S.Xavier Rajini

For Respondent : Mr. V.George ragu



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ORDER

This Civil Revision Petition is filed to call for the records relating to the order dated 27.01.2021 in E.P.No.15 of 2018 in O.S.No.170 of 2007 on the file of the Court of the Subordinate Judge, Eraniel, Kanyakumari District, set aside the same and allow the same.

2. The suit in O.S.No.170 of 2007 granting a decree of declaration and mandatory injunction by the trial Court by the judgment dated 18.04.2016. Against that the revision petition ought to have been filed by the petitioner, within the time. There is a delay. So he filed I.A.No. 134 of 2017 that was filed along with the ground of appeal. Pending the above said petition, E.P. was initiated by the respondent in E.P.No.15 of 2018.

3. Now the grievance of the revision petitioner is that since I.A., is pending before the Appellate Court, depending upon the order in that I.A.No.134 of 2017, execution should be decided.



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4. Per contra, learned counsel for the respondent would submit that even that I.A., came to be dismissed twice for default. Whether it has been restored or not is not known.

5. Learned counsel for the petitioner would submit that it was restored to file.

6. Since there is no stay order by the appellate Court, the execution petition cannot be stalled. The order of the execution Court cannot be found fault. Since I.A.No.134 of 2017 is pending before the appellate Court, depending upon the outcome of the I.A., further process may be undertaken. There shall be a direction to the Principal District Judge, Nagercoil, to dispose the I.A.No.134 of 2017, within a period of 15 days from the date of receipt of a copy of this order. As noted above, depending upon the order to be passed, further process may be taken in E.P.No.15 of 2018, pending before the Subordinate Judge, Eraniel.



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7. With the above observation, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.The Principal District Judge, Nagercoil.
- 2.The Subordinate Judge, Eraniel.
- 3.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G. ILANGO VAN, J.

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