



C.R.P(MD)No.2893 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

C.R.P(MD)No.2893 of 2023
and C.M.P. (MD) No.15028 of 2023

Muthathal ...Petitioner/Petitioner/Appellant

Vs.

Maheswari ...Respondent/Respondent/Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the impugned Fair and Decretal order dated 16.08.2023 passed in I.A.No.2 of 2023 in A.S. No.53 of 2023, on the file of the Additional District Court (FTC), Tenkasi.

For Petitioner : Mr.D.Nallathambi
For Respondent : Mr.M.Jothi Basu

ORDER

This Civil Revision Petition is filed against the impugned order dated 16.08.2023 passed in I.A.No.2 of 2023 in A.S.No.53 of 2023, on the file of the Additional District Court (FTC), Tenkasi.



C.R.P(MD)No.2893 of 2023

WEB COPY

2. The suit in O.S.No.169 of 2017 was filed by the respondent herein seeking the relief of specific performance. That was decreed on 01.04.2022 against which A.S.No.53 of 2023 was filed before the Principal District Judge, Tirunelveli. The same was transferred to the file of the Additional District Judge(FTC), Tenkasi, and stated to be pending. During the pendency of the appeal proceedings, I.A.No. 2 of 2023 in A.S.No.53 of 2023 was filed to stay the execution of the decree and judgment passed by the trial court in and that came to be dismissed against which the present revision is filed.

3. During the pendency of the appeal proceedings, the respondent herein filed E.P.No.120 of 2022 before the trial court seeking an order of execution of the decree and in that Execution Petition, the petitioner remained ex-parte and execution was also ordered.



C.R.P(MD)No.2893 of 2023

WEB COPY

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials.

5. The Appellate Court dismissed the petition filed by the revision petitioner seeking an order of interim stay of the decree by stating that in the execution petition, since the petitioner has not appeared before the Court, ex-parte order has been passed and the petitioner did not take steps to set aside the ex-parte order passed in the execution proceedings.

6. This Court does not find any error in that order. If the decree is executed before the appeal is heard on merits. The petitioner may face hardship in the event of the appeal allowed on merits by invoking Section 144 C.P.C. But on this ground, the order passed by the Appellate Court cannot be interfered with. But, there shall be a direction to the Appellate Court to dispose of the appeal within a period of two months from the date of receipt of a copy of this order. In the meantime, let the execution proceedings in E.P.No.



C.R.P(MD)No.2893 of 2023

120 of 2022 be kept in abeyance.
WEB COPY

7. In fine, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

04.01.2024

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

To

1.The Additional District Court (FTC),
Tenkasi.

2. The Section Officer, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P(MD)No.2893 of 2023

G. ILANGO VAN, J.

CM

C.R.P(MD)No.2893 of 2023
and C.M.P. (MD) No.15028 of 2023

04.01.2024