



C.R.P.(MD)No.3055 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.3055 of 2024
and C.M.P.(MD).No.17392 of 2024

K.Kasinathan

... Petitioner/Petitioner No.1/

Respondent No.1/Defendant No.1

Vs.

1.Banumathi

2.Dhanalakshmi

... Respondent Nos.1 & 2/

Respondent Nos.1 & 2/Petitioners/Plaintiffs

3.M.Karuppiah @ Pandi

4.M.Rajangam

... Respondent Nos.3 & 4/Petitioner Nos.2 & 3

/Respondent Nos.2 & 3//Defendant Nos. 2 & 3

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to call for the records pertaining to the fair and decreetal order in E.A.No.3 of 2024 in E.P.No.4 of 2024 in O.S.No.14 of 2019, dated 28.10.2024 on the file of District Munsif cum Judicial Magistrate, Illayangudi and set aside the same.



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For Petitioner : Mr.T.Lajapathi Roy, Senior Counsel
for Mr.S.Stevenson

ORDER

This revision petition has been preferred against the order of dismissal passed by the Execution Court.

2.Considering the facts and circumstances of the case notice to the respondents is dispensed with and the matter is taken up for final disposal at the admission stage itself.

3.Suit in O.S.No.14 of 2019 was filed by the respondents 1 and 2 herein as plaintiffs, seeking declaration, mandatory injunction and recovery of possession with costs. The same was partly allowed and the suit was decreed in respect of declaration and recovery of possession. In respect of mandatory injunction, the suit was dismissed. To execute the above said decree, the plaintiffs filed execution petition before the execution Court in E.P.No.4 of 2024. In the meantime, against the decree and Judgment passed in the suit, the defendants filed appeal suit before the Sub Court, Manamadurai, in A.S.No.1 of 2024, along with an interlocutory application in I.A.No.3 of 2024 seeking stay of execution



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proceedings before the execution Court.

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4.The grievance of the petitioner is that pending the above said matter before the appellate Court, E.A.No.3 of 2024, has been filed to stay the execution proceedings before the Execution Court. But that came to be dismissed by the Execution Court.

5.When there is no stay order by the appellate Court, there is no prohibition for the trial Court/execution Court to execute the decree.

6.However, considering the facts and circumstances of the case, there shall be a direction to the appellate Court namely the Sub Court, Manamadurai, to dispose of the I.A.No.3 of 2024 in A.S.No.1 of 2024, pending on its file, within a period of one month from the date of receipt of a copy of this order, on its own merits. Depending upon the outcome of the stay petition in the appeal suit, further proceedings shall be taken in the execution petition. Till then the Execution Court shall wait.



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7. With the above said directions, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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

To

1. The Subordinate Judge, Manamadurai.
2. District Munsif cum Judicial Magistrate, Illayangudi.
3. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVA,J.

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