



A.S.No.352 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 24.06.2025

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

A.S.No.352 of 2021
and
C.M.P.Nos.16257 of 2021 and 218 of 2023

Ganeshan @ Ganeshamoorthy

... Appellant

Versus

1.A.C.B.Kunjappu
2.K.Subaitha
3.V.N.Jothiraj
Bharathi Babu (Died)
4.Jayanthi
5.B.Sheela
6.Minor Aswath

... Respondents 5 & 6

Appeal Suit is filed under Section 96 of Civil Procedure Code to set aside the judgment and decree dated 20.09.2019 passed in O.S.No.235 of 2010 on the file of the learned III Additional District and Sessions Judge, Coimbatore.

For Appellants
For Respondents 1 & 2

: Mr.M.Devaraj
: Mr.T.Balaji
for Mr.A.Thiyagarajan

For Respondents 3 & 4
For Respondents 5

: Notice not ready
: No appearance

JUDGMENT



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This Appeal Suit has been filed to set aside the judgment and decree dated 20.09.2019 passed in O.S.No.235 of 2010 on the file of the learned III Additional District and Sessions Judge, Coimbatore.

2. The Defendant in O.S.No.235 of 2010 on the file of the learned III Additional District and Sessions Judge, Coimbatore, is the Appellant in this Appeal.

3. When the Defendant moved C.M.P.No.16287 of 2021 seeking stay of the operation of the decree in O.S.No.235 of 2010, this Court at the earliest point of time at the admission stage of the Appeal had granted Interim stay on condition to deposit part of the amount to the credit of O.S.No.235 of 2010. But the conditional order was not complied with. Therefore the interim stay was vacated as per the order of this Court dated 31.10.2022.

4. Also it was pointed that the earlier learned Counsel for the Appellant, Thiru. R. Subramanian had filed memo as early as on 31.10.2022 stating that he had handed over the papers to the client on 27.10.2022. Based on which, the Appeal itself was dismissed. Subsequently the Appeal had been restored and therefore there is no question of once again granting stay.



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Therefore if the Appellant intends to argue, he can argue the main case. Now,

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change of Counsel for the Appellant had proceeded with the Appeal.

5. The learned Counsel for the Appellant submitted his arguments and the learned Counsel for the Respondent submitted his arguments on subsequent adjourned dates. On which date, the learned Counsel for the Respondent filed memo stating that since there was no stay and the stay already granted in C.M.P.No.16287 of 2021 was vacated as per order of this Court dated 31.10.2022 and the Appeal was dismissed subsequently against which it was restored. In the meanwhile, E.P was ordered. Delivery and possession ordered in E.P.No.80 of 2021. Delivery was recorded in E.P as per the order of the learned III Additional District Judge, Coimbatore dated 04.10.2024. Therefore, the learned Counsel for the Respondent sought dismissal of the Appeal as nothing survives.

6. The memo filed by the learned Counsel for the Respondent contains the order passed by the learned III Additional District Judge, Coimbatore in E.P and the receipt for recording delivery of possession to the decree holder/Plaintiff in O.S.No.235 of 2010.

7. On perusal of the daily case status on the website of the trial



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Court, what had been stated by the learned Counsel for the Respondent in the memo is found acceptable. Therefore, Appeal dismissed as nothing survives.

In the light of the proceedings in the Execution Petition, the **Appeal Suit is dismissed as infructuous**. There shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

24.06.2025

srm/shl
Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No

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1.The III Additional District and Sessions Judge,
Coimbatore.

2.The Section Officer,
Vernacular Records,
Madras High Court.



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SATHI KUMAR SUKUMARA KURUP, J.

srm/shl

Judgment made in
A.S.No.352 of 2021

24.06.2025