

Punithan and Another Vs. Michael George and Another

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Court : Chennai Madurai

Decided On : Dec-02-2016

Judge : D. Krishnakumar

Appeal No. : C.R.P(PD)(MD) No. 2475 of 2016 & C.M.P(MD) No. 11687 of 2016

Appellant : Punithan and Another

Respondent : Michael George and Another

Judgement :

(Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying this Court to call for the records pertaining to the docket order passed in I.A.No.155 of 2016 in A.S.No.17 of 2016, dated 7.10.2016, on the file of the District Judge, Kanyakumari District at Nagercoil.)

1. This revision has been filed seeking for a direction to call for the records pertaining to the docket order passed in I.A.No.155 of 2016 in A.S.No.17 of 2016, dated 7.10.2016, on the file of the District Judge, Kanyakumari District at Nagercoil.

2. According to the Petitioners, the first respondent herein filed a suit in O.S.No.3 of 2009 before the Sub-Court, Nagercoil against one Rajarathinam and others and thereafter the Lrs of Rajarathinam was impleaded as defendants 4 and 5 and they were impleaded as a party in the suit. The Petitioner has filed a counter claim in the said suit. After contest, the second Additional Sub-Court, Nagercoil dismissed

the suit filed by the first respondent herein and allowed the counter claim filed by the revision petitioner. Against the dismissal of the suit, an appeal was filed by the plaintiff/first respondent in A.S.No.17 of 2016 before the District Court, Kanyakumari District at Nagercoil. The first respondent herein filed an application in I.A.No.155 of 2016 for stay of the judgement and decree of the lower court in the main suit till the disposal of the appeal suit, under Order 41 Rule 5 of C.P.C and the said I.A was disposed on 7.10.2016 granting stay on condition to dispose of A.S.No.17 of 2016 within the end of December 2016. Aggrieved by the said order, the revision petitioner has filed the present C.R.P before this Court.

3. The learned counsel for the Petitioner advanced his arguments that the stay was granted in the counter claim. On perusal of the Petition and the docket order filed before this Court, that the petitioner has prayed for stay of the judgement and decree in the main suit till the disposal of the appeal suit. In the docket order, it has been mentioned on 7.10.2016 by the appellate court that stay was granted on condition to dispose the appeal suit by December 2016. The learned counsel for the Petitioner would submit that the E.P filed by the revision petitioner cannot proceed with in view of the stay granted by the appellate court. On perusal of the prayer in the present C.R.P, the Petitioner seeks only to set aside the docket order passed in I.A.No.155 of 2016 in A.S.No.17 of 2016, dated 7.10.2016, on the file of the District Judge, Kanyakumari District at Nagercoil. Therefore at this stage, this Court cannot accept the contention raised by the learned counsel for the Petitioner. The Petitioner has not sought for any other relief except the above, in the C.R.P. Hence the revision fails.

4. Accordingly, the Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is dismissed. No costs.

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