

Order on I.A No.IV filed U/sec. 151 of CPC by the petitioner.

1. Counsel for the petitioner filed application U/sec. 151 of CPC praying to stay further proceedings in EP No. 60/2022 pending before this court till disposal of this petition in the interest of justice and equity.

2. The petitioner has stated that he has merits to succeed in this case. If the further proceeding in EP No. 60/2022 pending before this court is not stayed then the petitioner will be deprived of his only house and he lose his shelter. The house is worth more than Rs. 15,00,000/-. There is substantial material and good ground to establish the case before this court by filing written statement. The plaintiff by virtue of judgment and decree at any time may obstruct and interfere in the suit property. It is just and necessary to stay the further proceedings in EP No. 60/2022 pending before this court. Thus prayed to allow the application.

3. The respondent filed objections contending that respondent had filed O.S 7/2019 in the month of February 2019. After filing the suit the this court has issued suit summons to the defendant to the address shown by him in the Regd.

Misc. 22/2023

Agreement for sale which is executed by the petitioner. After issuing summons petitioner has intentionally avoided to receive the suit summons. The address of the defendant shown in O.S No. 7/2019 and the address of the petitioner in Misc. No. 22/2023 are one and the same. When the address in both suits are one and the same, it clearly shows that the judgment debtor has intentionally avoided to receive the suit summons. Thereafter the plaintiff has taken substitute service and same has been served upon him as the address shown in present petition.

4. The O.S No. 7/2019 was filed in month of February 2019 and was decreed on 29.07.2022. Its seems that, the petitioner knowing all the said facts only intended to watch the status of the case by staying outside without appearing before this court. As per the judgment and decree passed by court and as per direction issued by the court, the respondent deposited the balance consideration amount before the Honorable court and issued the court commissioner warrant. The court commissioner has executed Regd. Sale deed infavour of the decree holder. It is further contended that already the court

commissioner has executed Regd. Sale deed infavour of the decree holder and therefore the E.P proceedings cannot be stayed. Hence prayed to reject the application.

5. Heard arguments of learned counsel for the petitioner and learned counsel for the respondent on I.A.No.IV and perused the entire materials on record.

6. On the basis of materials on record the points arise for my consideration are as under,

- 1) *Whether petitioner has made out reasonable grounds to allow the application?*
- 2) *What Order?*

7. On perusal of the materials on record and the application and its contents, My findings on aforesaid points are as under

- Point No.1** : In the Affirmative
Point No.42 : As per final orders
for the following,

: R E A S O N S :

8. Reasoning on Point No.1:

a) The petitioner has stated that he has merits to succeed in this case. If further proceeding in EP No. 60/2022 pending

before this court is not stayed then the petitioner will be deprived of his only house and he lose his shelter. It is further stated that there is substantial material and good ground to establish the case before this court. It is further stated that the plaintiff by virtue of judgment and decree at any time may obstruct and interfere in the suit property.

b) On the contrary the respondent has contended that the defendant though had knowledge about the suit he did not appear before the court. It is also contended that already sale-deed is executed by the court commissioner in favour of Dhr.

c) The plaintiff has filed this main petition seeking for setting aside the exparte judgment and decree passed in O.S No.07/2019. The document produced by the respondent shows that already sale-deed is executed in favour of respondent as per the decree passed in O.S 7/2019 but the respondent has not produced any documents to show that in pursuance of the sale-deed, possession of the suit property has been delivered to the respondent at this stage. The petitioner has stated that if further proceedings E.P is not stayed then it will lead to injustice to the petitioner and the purpose of filing this petition will be

frustrated. Hence in the interest of justice and the materials placed on record does warrants this court to stay the further proceedings in E.P No.60/2022 till disposal of this petition in the interest of justice. Therefore, I answer point No.1 in affirmative.

9. Point No.2:- In view of findings given on point No.1, I proceed to pass the following:

ORDER

The Application filed by the petitioner U/section 151 of CPC is allowed.

The further proceedings in E.P No.60/2022 is hereby stayed till disposal of this petition.

Petitioner directed to cooperate in early disposal of this petition without seeking any unnecessary adjournments.

Posted for petitioner evidence.

Call on 11-09-2024.

**Senior Civil Judge & JMFC.,
Chincholi.**