

(1924) 04 MAD CK 0054
In the Madras High Court

Ramasubbu Nayaker

APPELLANT

Vs

Dorai Raj alias Muniandi Naicker by Rangammal, Guardian

RESPONDENT

Date of Decision : 22-04-1924

Acts Referred:

Registration Act, 1908 — Section 77

Citation : (1924) 20 LW 966 : (1924) 47 MLJ 735

Hon'ble Judges : Devadoss, J

Bench : Division Bench

Judgement

Devadoss, J.—This is an application for stay of the execution of a decree pending the disposal of a First Appeal (unnumbered). Mr.

Venkatrayaliah, on behalf of the respondent, has taken notice of this application for stay and has very strongly opposed the stay on the ground that

Section 77 of the Registration Act is imperative and that the document must be presented within 30 days of the decree of the Subordinate Judge's

Court. In other words, his contention is that this Court has no power to stay the execution of the decree and that if it does stay the non-

presentation of the document within 30 days would make the document useless. I am unable to accept this contention. Section 77 of the

Registration Act provides for the filing of a suit by a person who wants to get the document registered and for asking for relief and the relief that he

asks is that the Registrar may be directed to register this document within 30 days after the passing of such order. This does not prevent a Civil

Court which has power to hear an appeal against the order made by the lower Court from staying the execution of the decree under the CPC and

I wish to make it clear that the order which I make on this application will not in any way prejudice Mr. Venkatrayaliah's client. Mr. Krishnaswami

Rao has drawn my attention to a case reported in Gopinath Adhikary v. Gadadhar Das ILR (1906) C 1020 in which this question is incidentally considered. McLean, C.J. held that there was no objection to a document being presented after the disposal of the appeal provided that it was presented within 30 days from the disposal. In a matter like this, where the decision of the First Court is not final, it cannot be said that the document must be presented within thirty days from the decision of the First Court. It may be that the defendant may fail here and succeed on appeal to the Privy Council or the appellant may succeed here and the respondent may succeed on appeal to the Privy Council. Section 77 refers to the final decision of a Civil Court and not to the decision of a Court whose judgment is likely to be reversed on appeal. I, therefore, hold that the objection of Mr. Venkatrayaliah fails and I direct that the execution of this decree as to registration be stayed pending the disposal of the appeal. In other words, the registration of the document will be stayed pending the disposal of the appeal. There will be no stay as regards the rest of the decree.