

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.09.2016

CORAM

The Hon'ble Mr.Justice **M.V.MURALIDARAN**

CRP(NPD).No.4455 of 2011
and
M.P.No.1 of 2011

1.S.Siva

2.Nagammal

(Cause title accepted vide order of the Court
dated 14.11.2011 made in M.P.No.1/11 in
CRP.No.9863/11).

.. Petitioners

vs.

Arulmigu Nagareeswarar Temple,
Rep by its the Executive Officer,
Kancheepuram,
Office at Arulmigu Ekamparanathar Temple,
Ekamparanathar Sannathi Street,
Big Kancheepuram,
Kancheepuram.

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to prefer this Memorandum of Grounds of Civil Revision Petition against the Petition Order passed in E.A.No.192 of 2009 in E.P.No.270 of 2006, in O.S.No.1231 of 1996, dated 01.11.2011, on the file of the District Munsif Court, Kancheepuram.

For Petitioner

... M/s.R.Singaravelan

ORDER

This Civil Revision Petition has been filed against the Petition Order passed in E.A.No.192 of 2009 in E.P.No.270 of 2006, in O.S.No.1231 of 1996, dated 01.11.2011, on the file of the District Munsif Court, Kancheepuram.

2. The respondent herein/plaintiff and two others filed a suit in O.S.No.1231 of 1996, on the file of the Principal District Munsif Court, Kancheepuram, praying to direct the defendants to vacate and handover the possession of the scheduled mentioned premises; to pay the arrears of rent for a sum of Rs.900/- to the respondents for the past three years; to pay a sum of Rs.650/- towards past damages for use and occupation of the premises and cost of the suit. On 25.11.1996, the plaintiffs were called absent and set ex-parte and the ex-parte decree was passed on that day itself. Subsequent to that, the defendants/petitioners herein filed a petition in E.P.No.270 of 2006 to deliver the suit property as per the decree, against which the plaintiffs filed an application in E.A.No.192 of 2009 in E.P.No.270 of 2006 in O.S.No.1231 of 1996 praying for stay of the delivery and execution proceedings till the final disposal of the CRP.SR.No.4049 of 2009 on the file of this Court and the same was dismissed by the Trial

Court on 01.11.2011 against which this Civil Revision Petition is filed.

3. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent and perused the materials available on record.

4. The learned counsel appearing for the petitioners submitted that pending disposal of the Civil Revision Petition challenging the order of the exparte decree dated 25.11.1996, the Trial Court cannot direct the delivery of possession of the suit property and the Trial Court has also dismissed the application by a non-speaking order which is contrary to the well settled principles of law. Further, the learned counsel submitted that the management of the Temple was taken over by the Executive Officer of the Temple and therefore, the petitioner had taken steps to implead the Executive Officer of the Temple in the place of the decree holder and the same was allowed by this Court on 18.10.2011, which was not considered by the Trial Court. The Execution Court failed to note that the Executive Officer, Kancheepuram District was impleaded as a party to the Execution Proceedings in the place of the decree holder, after the management of the temple was taken over by the Executive Officer. Hence, the

Executive Court has no jurisdiction to execute the exparte decree.
Hence, this petition may be allowed.

5. Considering the facts and circumstances of the case and also considering the submissions made on either side, this Court is inclined to set aside the petition order passed in E.A.No.192 of 2009 in E.P.No.270 of 2006, in O.S.No.1231 of 1996, dated 01.11.2011. Accordingly, the same is set aside and the Civil Revision Petition is allowed. Further, the trial Court is directed to consider the application in E.A.No.192 of 2007 in E.P.No.270 of 2006, in O.S.No.1231 of 1996 and dispose of the same within a period of one month, from the date of receipt of a copy of this order, by giving notice to both parties.

6. Accordingly, this Civil Revision Petition is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

02.09.2016

Index:Yes/No
Internet:Yes/No
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To
The District Munsif Court,
Kancheepuram.

M.V.MURALIDARAN,J.

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