

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.09.2016

CORAM

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

CRP(NPD).No.2813 of 2016
and
C.M.P.No.14313 of 2016

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 Trustees,

1.Seenuvasa Chettiar

2.M.G.Sundaresan

3.R.C.Krishnan

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to allow this Civil Revision Petition by setting aside the fair and decreetal order in I.A.No.1439 of 2007 in O.S.No.1231 of 1996 dated 07.02.2008 on the file of the Principal District Munsif Court, Kancheepuram.

For Petitioner

... M/s.R.Singaravelan

ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order in I.A.No.1439 of 2007 in O.S.No.1231 of 1996 dated 07.02.2008 on the file of the Principal District Munsif Court, Kancheepuram.

2. The respondents herein/plaintiffs 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 to stay the delivery and execution proceedings till the final disposal of the CRP.SR.No.4049 of 2009 on the file of this Court. Pending the said application, the petitioners filed an application in I.A.No.1439 of 2007 in O.S.No.1231 of 1996 to

condone the delay on 3650 days in filing the petition to set aside the exparte decree dated 25.11.1996. The Trial Court, after hearing both sides has dismissed the petition contending that no evidence has been adduced on the side of the petitioners to prove that oral compromise has been made between them and the reasons for the delay stated by the petitioner is not genuine. Against which, this Civil Revision Petition has been filed by the petitioners.

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

4. The learned counsel for the petitioners submitted that on payment of reasonable cost the petition may be allowed and the same was accepted by the learned counsel appearing for the respondents.

5. Considering the facts and circumstances of the case and also considering the submissions made on either sides, this Court is inclined to set aside the I.A.No.1439 of 2007 in O.S.No.1231 of 1996, accordingly, the same is set aside and the Civil Revision Petition is allowed subject to the condition that the petitioners shall pay a sum of Rs.10,000/- (Rupees Ten Thousand) by way of Demand Draft and

the same should be paid in favour of the Headmaster, Government Higher Secondary School, Iyyappanthangal, Chennai -56. The petitioner should pay the said cost by way of taking demand draft in favour of the above said school and hand over the same to the school Headmaster, within a period of two weeks from the date of receipt of a copy of this order and produce the receipt before this Court. The Headmaster, Government Higher Secondary School, Iyyappanthangal, Chennai - 56, is hereby directed to encash the demand draft and use the said sum for the welfare of the students by way of constructing a good toilet in the school. Further, the trial Court is directed to consider the application in I.A.No.1439 of 2007 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. The trial Court is also directed to dispose of the suit in O.S.No.1231 of 1996, within a period of three months thereafter. In this regard, both parties are directed to co-operate for early disposal of the suit.

6. Accordingly, the Civil Revision Petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

02.09.2016

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Index:Yes/No
Internet:Yes/No

To
The Principal District Munsif Court,
Kancheepuram.

M.V.MURALIDARAN,J.

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