

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : **17.04.2017**

DELIVERED ON : **28 .04.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) Nos.920, 921 of 2013

Sundaramoorthy : Petitioner

versus

Arulmighu Vaikundaperumal Thirukoil
rep. By its Executive Officer,
Vaikundaperumal Sannidhi Street,
Kanchipuram : Respondent

PRAYER: Revisions filed against the order dated 28.1.2013 in E.A.Nos.13 and 36 of 2012 in E.P.No.205 of 1991 on the file of the Principal District Munsif, Kancheepuram.

For petitioner :: Ms.D.Selvakumari

For respondent :: Mr.K.Hariharan

COMMON ORDER

The petitioner filed execution application before the executing court to give fresh life to a dead litigation. The learned Principal District Munsif, Kanchipuram having found that the petitioner was not ready to adduce oral evidence, dismissed the execution application for default. Feeling aggrieved, the petitioner filed C.R.P. (PD) No.920 of 2013. The application filed by the

petitioner in I.A.No.36 of 2012 before the executing Court to permit him to file petition under Section 47 of CPC was dismissed by order dated 28 January 2013, consequent to the dismissal of the execution application. The order is under challenge in C.R.P.(PD) No.921 of 2013.

2. I have heard the learned counsel for the petitioner. I have also heard the learned counsel for the respondent.

3. The documents available on record would show that the Devasthanam, represented by its trustees, filed a suit in O.S.No.161 of 1970 before the District Munsif, Kanchipuram, against the mother of the petitioner, for possession. The learned District Munsif by way of a balancing judgment, decreed the suit, directing the defendant therein to pay a sum of Rs.7,000/- being the value of the site in her possession, failing which, it was indicated that the defendant shall put the plaintiff in vacant possession of the property. Since the defendant in O.S.No.161 of 1970, failed to comply with the decree dated 18 January 1974, the respondent filed execution petition before the executing court in E.P.No.205 of 1991. The prayer was to execute the decree on account of its non compliance by the mother of petitioner.

4. Before the executing Court, the petitioner who is stated to be the son of the defendant in O.S.No.161 of 1970, filed two applications, one

under Section 47 CPC and another to stay the operation of the order dated 17 December 2011 made in E.P.No.205 of 1991. The petitions were filed some time in 2011. The petitions were numbered in 2012. The petitioner took adjournment on multiple occasions. The dates and events would clearly indicate that the applications were adjourned time and again at the instance of the petitioner. It was only under such circumstances, the learned District Munsif, dismissed the applications.

5. This is nothing but second round of litigation at the instance of the son of the original defendant. The decree passed against the defendant would bind even the petitioner as he has stepped into the shoes of his mother. In any case, the executing court was perfectly justified in dismissing the applications pending for a considerable time. I am therefore of the view that this is not a fit case to exercise the revisional jurisdiction under Article 227 of the Constitution of India.

6. In the upshot, I dismiss the civil revision petition. No costs. Consequently, M.P.Nos.1 and 2 of 2013 are closed.

28.04.2017

Index:Yes/no
tar

To
The Principal District Munsif, Kancheepuram.

K.K.SASIDHARAN, J.

(tar)

P.D. Order in
C.R.P.(P.D.) Nos.920, 921 of 2013

28.04.2017