

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.4691 and 4692 of 2014
& M.P.No.1 of 2014

- 1.Sri Jaya Dhurgai Amman Thirukoil Sangam
Rep. By its President R.Narasimhan
No.1/1, Anna Avenue, Arumbakkam,
Chennai 600 106.
 - 2.P.S.Sivaraman, Secretary,
Sri Jaya Dhurgai Amman Thirukoil Sangam,
No.3, 1st Floor, Bharathi Nagar,
Arumbakkam,
Chennai 600 106.
- .. Petitioners

Vs.

- 1.S.Syamala
- 2.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai 600 003.
- 3.The Commissioner,
HR & CE Department,
Nungambakkam High Road,
Chennai 600 034.
- 4.The Assistant Commissioner,
Corporation of Chennai,
Old Zone No.5, New Zone No.8,
Old Division No.75, New Division No.105,
Shenoy Nagar, Chennai 30.

5.The Junior Engineer
Corporation of Chennai,
Old Zone No.5, New Zone No.8,
Old Division No.75, New Division No.105,
Shenoy Nagar, Chennai 30.

6.The Inspector of Police (Law and order)
K-8, Arumbakkam Police Station,
Chennai 106.

.. Respondents

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the judgment and decree dated 27.08.2014 made in C.M.A.Nos.152 and 151 of 2013 on the file of the I Additional City Civil Court, Chennai, confirming the fair and decretal order dated 22.08.2013, made in I.A.Nos.3374 and 4485 of 2013 in O.S.No.1237 of 2013 respectively on the file of the XIII City Civil Court, Chennai.

For Petitioners : Mr.V.Lakshminarayanan

For R1 : Mr.B.Balachandran
for Mr.Ashok Menon

For R2, R4 & R5 : Dr.C.Ravichandran

For R3 & R6 : No appearance

COMMON ORDER

These Civil Revision Petitions are filed to set aside the judgment and decree dated 27.08.2014 made in C.M.A.Nos.152 and 151 of 2013 on the file of the I Additional City Civil Court, Chennai,

confirming the fair and decretal order dated 22.08.2013, made in I.A.Nos.3374 and 4485 of 2013 in O.S.No.1237 of 2013 respectively on the file of the XIII City Civil Court, Chennai.

2.The petitioners are the defendants 1 and 2, first respondent is the plaintiff and respondents 2 to 6 are the defendants 3 to 7 in O.S.No.1237 of 2013 on the file of the XIII city Civil Court, Chennai. The first respondent filed the said suit for declaration to declare that the structure of the Sri Jaya Dhurgai Amman Temple in front of premises No.1, Bharathi Nagar, Panchaliamman Koil Street, Arumbakkam, Chennai 600 106 is an illegal and unauthorized structure, for mandatory injunction directing the petitioners, respondents 2, 4 and 6 to demolish the Sri Jaya Dhurgai Amman Temple and permanent injunction restraining the petitioners from putting up further construction. The first respondent filed I.A.No.3374 of 2013 for interim injunction, pending suit. Initially, the interim injunction was granted. The petitioners filed I.A.No.4485 of 2013 to vacate the interim injunction.

3.Before the learned Trial Judge, first respondent marked 20 documents as Exs.P1 to P20 and petitioners marked 10 documents

as Exs.R1 to R10. Advocate Commissioner's report and sketch were marked as Exs.C1 and C2.

4.The learned Trial Judge considering all the materials on record, affidavit, counter affidavit and documents, allowed I.A.No.3374 of 2013 and dismissed I.A.No.4485 of 2013.

5.The petitioners filed C.M.A.Nos.151 and 152 of 2013 against the said order dated 22.08.2013 made in I.A.Nos.4485 and 3374 of 2013 respectively in O.S.No.1237 of 2013.

6.The learned Appellate Judge considering the materials available on record and order of the learned Trial Judge, dismissed both the appeals, confirming the order of the learned Trial Judge.

7.Against the said judgment and decree dated 27.08.2014 made in C.M.A.Nos.152 and 151 of 2013, confirming the fair and decretal order dated 22.08.2013, made in I.A.Nos.3374 and 4485 of 2013 in O.S.No.1237 of 2013, the petitioners have come out with the present two Civil Revision Petitions.

8. Heard the learned counsel for the petitioner as well as the first respondent and respondents 2, 4 and 5 and perused the materials available on record. Though notice was served on the respondents 3 and 6 and their names are printed in the cause list, there is no representation for them either in person or through counsel.

9. From the materials available on record, it is seen that the first respondent filed suit for declaration to declare that the structure of the Sri Jaya Dhurgai Amman Temple in front of premises No.1, Bharathi Nagar, Panchaliamman Koil Street, Arumbakkam, Chennai-600 106 is an illegal and unauthorized structure, and for mandatory injunction as well as permanent injunction restraining the petitioners from putting up further construction. The interim injunction is in force from the time of filing of the suit till date. In view of the fact that the first respondent also prayed for permanent injunction restraining the petitioners from putting up further construction and mandatory injunction demolishing the existing construction, the suit is of the year 2013 and since the learned counsel for the petitioners submitted that the Corporation has not filed written statement till now, the respondents

2, 4 and 5 are directed to file written statement within a period of four weeks from the date of receipt of a copy of this order and without deciding the issue in these Civil Revision Petitions on merits, the learned Judge is directed to dispose of the suit in O.S.No.1237 of 2013 on merits as expeditiously as possible, in any event not later than three months from the time granted to the respondents 2, 4 and 5 expired, without being influenced by the order passed in the I.A.Nos.4485 and 3374 of 2013 and judgments in C.M.A.Nos.151 and 152 of 2013.

10.In the result, both the Civil Revision Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

13.03.2018

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To

1.The I Additional Judge,
City Civil Court,
Chennai.

2.The XIII Judge,
City Civil Court,
Chennai.

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3.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai 600 003.

4.The Commissioner,
HR & CE Department,
Nungambakkam High Road,
Chennai 600 034.

5.The Assistant Commissioner,
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Old Zone No.5, New Zone No.8,
Old Division No.75, New Division No.105,
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6.The Junior Engineer
Corporation of Chennai,
Old Zone No.5, New Zone No.8,
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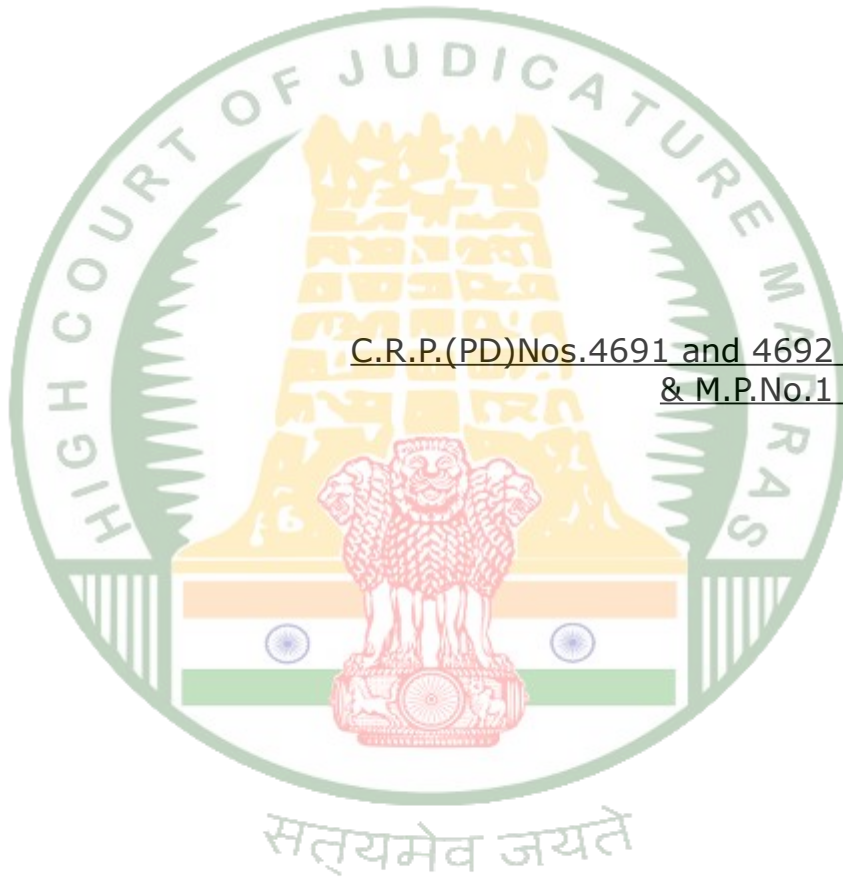
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V.M.VELUMANI,J.

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