

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.06.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(NPD) Nos.643 & 1533 of 2018
& C.M.P.Nos.8181, 3332 & 6084 of 2018

S.Dhanasekaran ... Petitioner in both CRPs

Vs.

Sri Vedhavinayagar Koil,
Represented by its Hereditary Trustee
Sanjeevi Chettiar,
Nethaji Road, Manjakuppam,
Cuddalore. ... Respondent in both CRPs

Common Prayer: The Civil Revision Petitions are filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 18.01.2018 & 26.03.2018 passed by the Principal District Munsif, Cuddalore, in E.A.Nos.7 & 50 of 2018 respectively in E.A.No.510 of 2017 in E.P.No.170 of 2010 in O.S.No.802 of 1990 as against the respondent.

For Petitioner
in both CRPs : Mr.A.Kumar

For Respondent
in both CRPs : Mr.R.Sunil Kumar

COMMON ORDER

The relief sought for in this revision petitions are to set aside the fair and decretal order dated 18.01.2018 & 26.03.2018 respectively made in E.A.Nos.7 & 50 of 2018 respectively in E.A.No.510 of 2017 in E.P.No.170 of 2010 in O.S.No.802 of 1990 on the file of the learned Principal District Munsif, Cuddalore.

2. In an earlier occasion, the petition in C.R.P.(NPD).No.643 of 2018 is dismissed for non prosecution on 05.03.2018. Now, both the counsel undertakes to argue the main case. Hence the Civil Miscellaneous petition in C.M.P.No.6084 is ordered. Accordingly, the Civil Revision petition in C.R.P.No.643 of 2018 is restored.

3. Heard both sides. Perused the materials on record.

4. According to the learned counsel for the petitioner, he filed an application for reception of additional evidence in E.A.No.7 in E.A.No.510 of 2018 in E.P.No.170 of 2010 and the E.P.Court by an order dated 18.01.2018, dismissed the said application without considering the application on merits simply dismissed only on technical ground.

5. Further, he has filed an application in E.A.No.50 of 2018 in E.A.No.510 of 2017 in E.P.No.170 of 2010 under Order XXI Rule 106 and Section 151 of C.P.C to restore the petition in E.A.No.510 of 2017 which was dismissed for default on 09.02.2018. The petition was dismissed on technical ground by an order dated 26.03.2018. The petitioner has got good defence in the Execution petition, the E.P.Court has not considered the same on merits.

6. Aggrieved against the above orders, the Revision petitioner is before this Court.

7. On a perusal of the affidavits filed by the petitioner before the E.P.Court in E.A.No.7 of 2018, no proper reasons have been assigned with the affidavit as to why he has not filed these documents already when he was examined in chief. Therefore, the E.P Court exercised its discretionary power and dismissed the applications on merits. Subsequently, the petitioner filed an application for restoration, the same was also dismissed. In the interest of justice, the orders passed by the E.P.Court in E.A.No. 50 of 2018 is set aside and E.A.No.7 of 2018 is confirmed.

P.VELMURUGAN, J.,

vum

8. E.P.Court is directed to dispose the case in E.A.No.510 of 2017 which is filed under Section 47 of Code of Civil Procedure in accordance with law. Since the Execution proceedings are pending from the year 2010, the E.P.Court is directed to dispose of the Execution proceedings in E.P.No.170 of 2010, within three months from the date of receipt of a copy of this Order.

9. With the above directions, the Civil Revision petition in C.R.P.No.643 of 2018 is dismissed and the Civil Revision petition in C.R.P.No.1533 of 2018 is disposed of. Consequently, the connected Miscellaneous Petitions are closed. No costs.

07.06.2018

Index:Yes/No

Speaking order / Non speaking order

vum

Note:

1. Issue Order Copy on 08.06.2018
2. Registry is directed to restore the C.R.P.No.643 of 2018 on file.

To

The Principal District Munsif,
Cuddalore.

C.R.P.(NPD) Nos.643 & 1533 of 2018

& C.M.P.Nos.8181, 3332 & 6084 of 2018