



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.10.2018

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CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

C.R.P. (PD) (MD) .No.1708 of 2016

Sri Vaikuntapathi Swami Temple,  
Thoothukudi,  
Through its Executive Officer,  
Office at North Samantha Moorthi Street,  
Thoothukudi-2.

... Revision Petitioner

**Vs**

Joe Machado (died)  
Shirani Machado (died)  
1.Immanuel machado  
2.Joeal Machado  
3.Anto Machado  
4.Rasita Machado  
5.Heartly Machado  
Sahayaraj Machado (died)  
6.M.S.Moorthy

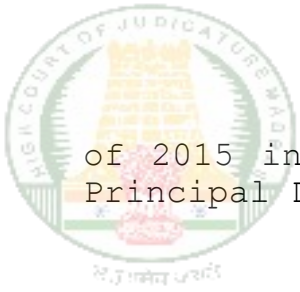
7.The Commissioner,  
Hindu Religious and Charitable Endowment,  
Chennai

8.State of Tamilnadu  
represented by  
The District Collector,  
Tuticorin.

... Respondents

(R7- suo motu impleaded vide Court  
order dated 01.09.2016 made in  
CRP(MD)No.1708 of 2016)

(R8- suo motu impleaded vide Court  
order dated 08.10.2018 made in  
C.R.P. (MD)No.1708 of 2016)



of 2015 in O.P.No.181 of 2001 dated 22.12.2015 on the file of the Principal District Court, Thoothukudi.

For Petitioner : Mr.H.Arumugam  
 For R7 and R8 : Mr.Chellapandian  
 Additional Advocate General  
 for Mr.M.Karuppasamy  
 Government Advocate

### ORDER

Pursuant to the direction given by the Hon'ble Supreme Court on 28.01.2010, in Civil Appeal No.4448 of 1999, the learned Principal District Court, Thoothukudi conducted the auction pertaining to the property of the revision petitioner temple. A sum of Rs.28,96,38,057/- fetched as a sale consideration. From the said amount, a sum of Rs.85,55,280/- was deducted as poundage amount. Since, this auction was not conducted in the execution proceedings, but pursuant to the direction given by the Hon'ble Supreme Court, the question of deducting the poundage amount from the sale consideration will not arise. Therefore, the learned Principal District Judge, Thoothukudi, is directed to transfer the said poundage amount which is said to be lying in Court deposit to the account of the revision petitioner temple. The Revision petitioner temple shall invest the same in an interest bearing account for the benefit of the temple.

2.O.P.No.181 of 2001 was filed by the respondents 1 to 5 herein seeking relief of appointment of an advocate commissioner for demarcating the 55 acres as ordered by the Hon'ble Supreme Court of India in Civil Appeal No.4448 of 1999 and selling the same in an public auction. Ultimately, the property was sold. After deducting the poundage amount, the balance sale amount was deposited in a bank in Fixed Deposit. The Executive Officer of the temple filed I.A.No.55 of 2015 for handing over the original fixed deposit receipt to the temple. The Court below under the impression that the Executive Officer is seeking to withdraw the amount, dismissed the I.A., by order dated 22.12.2015. The same is questioned in this Civil Revision Petition.

3.All that the revision petitioner wants is that the Fixed Deposit receipt instead being in the Court custody, should be in the custody of the temple. The petitioner is not seeking to withdraw the amount.

4.Therefore, the order impugned in this Civil Revision Petition is set aside and this Civil Revision Petition is allowed.



5. This direction is being passed after putting the learned Additional Advocate General on notice.

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Sd/-  
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-IV)

**To**

The Principal District Judge,  
Thoothukudi.

+ 1 CC TO Mr.H.ARUMUGAM, ADVOCATE IN SR No. 90391  
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 90435

PNN

TE/SV/SAR-4 : 30/11/2018 : 3P/4C

ORDER MADE IN  
C.R.P. (PD) (MD) .No.1708 of 2016  
11.10.2018