



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the Eighth day of October Two Thousand and Eighteen

PRESENT

The Hon`ble Mr.Justice KRISHNAN RAMASAMY

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CMP (MD) No.8571 of 2018
IN
CRP (MD) No.1262 of 2011

1.S.MOHAMMED GANI

2.P.SANKARANARAYANAN

3.P.ULAGANATHAN

4.S.P.SIVAN

5.S.SAHADEVAN

6.PANNERSELVAM

7.ELANGO VAN

8.SASEETHARAN

9.ASEERVATHAM

10.KEMALAMUTHU

CHARITIES BUILDINGTENANTS SANGAM, REG.NO.39/2000
TIRUNELVELI HIGH ROAD, REP.BY ITS SECRETARY

... PETITIONERS/... PETITIONERS

Vs

1.KEMALAMUTHU CHARITIES

REP.BY ITS MANAGER, N.K.ESWARAMOORTHY,

2.S.R.SANKARASUBRAMANIAM (DIED)

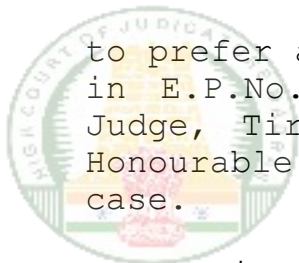
3.S.R.SANKARARAMA SUBRAMANIAM

4.S.R.SHANMUGAM

... RESPONDENTS/ RESPONDENTS

Prayer in CMP (MD) . 8571/ 2018 :

<https://hcservices.ecourts.gov.in/hcservices/>
This petition is filed under section 151 of C.P.C praying
this Court to clarify the order dated 20.08.2018 on this Honourable
Court in CRP (MD) No.1262 of 2011 by granting liberty to petitioners



to prefer appropriate petition seeking to strike off the proceedings in E.P.No.240 of 2010 on the file of the Principal Subordinate Judge, Tirunelveli and pass such further or other order as this Honourable court may deem fit and proper in the circumstance of the case.

Prayer in CRP(MD). 1262/ 2011 :

This petition is filed under section 115 of C.P.C praying this Court to set aside the order dated 26.04.2011 passed by the learned Principal Sub Judge, Tirunelveli in E.A. No.222 of 2011 in E.A. No.1007 of 2010 in E.P.No.210 of 2010 in O.S.No. 7 of 1989 and pass such further order or orders / directions in the interest of justice.

ORDDER:

This Civil Miscellaneous Petition is coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.S.Haja Mohideen Gisthi, Advocate for the petitioners and of Mr.H.Arumugam, Advocate for respondent Nos.1 and 3, the Court made the following order:

This miscellaneous petition is filed for clarification of the order dated 20.09.2018 passed in C.R.P.(MD)No.1262 of 2011.

2.Heard the learned counsel for the petitioner.

3.On 20.08.2018, the above C.R.P.(MD)No.1262 of 2011, was heard and allowed. Today, it is posted for clarification at the instance of the learned counsel for the petitioner.

4.The learned counsel appearing for the petitioners has submitted that based on the submissions made by the learned counsel for the respondents, the above Civil Revision Petition was allowed as prayed for, whereas the petitioner filed two Miscellaneous Petitions, one is for interim stay in M.P.(MD)No.1 of 2011 at the time of filing of the CRP and another one is for the purpose of struck off the suit in C.M.P.(MD)No.6798 of 2018 and the same were closed. He has further submitted that in Civil Appeal No.3683 of 2005, the tenants have filed an affidavit stating that they have handed over the possession to the respondent/temple. Under these circumstances, the learned counsel for the petitioner filed the above C.M.P.(MD)No.6798 of 2018 to struck off the suit, stating that the tenants have filed an affidavit in Civil Appeal No.3683 of 2005, to the effect that they have handed over the possession and the same was accepted by the respondent/temple, nothing survives in the Execution Petitions.

5.Under the above circumstances, this Court has expressed that the application filed in C.M.P.(MD)No.6798 of 2018 cannot be maintained in a Civil Revision Petition, which is beyond the scope of the Civil Revision Petition. However, it is made clear that it is open to the petitioners to agitate their rights with regard to the struck off the proceedings in accordance with Law, in Execution



Petition No.240 of 2010 on the file of the Principal Subordinate Court, Tirunelveli, on merits subject to the maintainability.

6. Accordingly, the order dated 20.09.2018, made in C.R.P.(MD) No.1262 of 2011 is clarified. Consequently, this Civil Miscellaneous Petition (MD) No.8571 of 2018 is closed.

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Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar(CS-IV)

TO

THE PRINCIPAL SUBORDINATE JUDGE,
TIRUNELVELI.

+ 1 CC TO Mr.S.Haja Mohideen Gisthi, ADVOCATE IN SR No. 19154.
+ 1 CC TO Mr.H.Arumugam , ADVOCATE IN SR No.89762.

ORDER
IN
CMP(MD) No.8571 of 2018
IN
CRP(MD) No.1262 of 2011
Date :08/10/2018

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