

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.Nos.3598 and 3600 of 2019
and C.M.P.Nos.23607 & 23611 of 2019

Margandeyan
D.M.Krishnan

... Petitioner in C.R.P.3598/2019
... Petitioner in C.R.P.3600/2019

-Vs-

1.The Pernambut Muslim Educational Society
rep.by its General Secretary having office at
Chowk Road, Pernambut, Vellore District.

2.The District Collector
Vellore District, C.P.Chitrarasu Maaligai
Sathuvachari, Vellore.

3.The Tahsildar,
Pernambut Taluk, Pernambut
Vellore District.

... Respondents in both C.R.Ps.

Prayer in CRP 3598/2019 : Civil Revision Petition under Section 115 of C.P.C.,
against the fair and decreetal order dated 20.08.2019 passed in I.A.No.1 of 2019 in
A.S.No.26/2007 on the file of the learned Subordinate Judge, Gudiyatham, Vellore
District.

Prayer in CRP 3600/2019 : Civil Revision Petition under Section 115 of C.P.C.,
against the fair and decreetal order dated 20.08.2019 passed in I.A.No.1 of 2019 in
A.S.No.29/2007 on the file of the learned Subordinate Judge, Gudiyatham, Vellore
District.

For Petitioners in both CRPs : Mr.S.Parthasarathy

ORDER

These revision petitions have been filed by the respective revision petitioners, as against the fair and decretal order dated 20.08.2019 passed in I.A.No.1 of 2019 in A.S.No.26 of 2007 and in I.A.No.1 of 2019 in A.S.No.29/2007 on the file of the learned Subordinate Judge, Gudiyatham, Vellore District. The respondents in both the civil revision petitions are one and the same.

2. Before the trial Court, the first respondent / plaintiff filed the respective suits for eviction against the revision petitioners / defendants, which were decreed, as against the decrees, the defendants filed the Appeal Suits, where they filed the present application to stay the operation of the decree.

3. While passing the impugned order dated 20.08.2019 in both the applications, the first appellate Court, though allowed the said interlocutory applications by granting interim order of stay of operation of the trial Court decree, imposed a condition, directing the revision petitioners / defendants, who were the appellants before the first appellate Court, to deposit the entire alleged rental arrears. Aggrieved over the said condition imposed by the first appellate Court, these revisions have been filed.

4. Learned counsel appearing for the petitioners would submit that, the rental arrears comes to about Rs.35,000/- in each case. If that being so, depositing

of such amount cannot be a big question to the revision petitioners. However, the very property in question itself is a Government Poramboke land therefore, the question of claiming any rent from the revision petitioners does not arise and once that issue is decided by the first appellate Court, the present condition directing the revision petitioners / defendants to deposit the rental arrears becomes otiose.

5. However, the learned counsel would also submit that, by accepting the said conditional order, if the alleged rental arrears is deposited, that would be construed by the first respondent / plaintiff that they are the owner of the property and under whom these revision petitioners / defendants were tenants and there had been rental arrears and in such circumstances, that will cause great prejudice to the rights of the revision petitioners, which has to be finally decided only by the first appellate Court in the respective appeals. On these two reasons, the said conditional order passed by the Court below is assailed in these revisions.

6. I have considered the said submissions made by the learned counsel for the petitioners and have considered the materials placed before this Court.

7. The only grievance of the revision petitioners seems to be, if the rental arrears is paid, for which, since according to them the first respondent / plaintiff is not entitled, they can take advantage of the situation. If that is the only

apprehension on the part of the revision petitioners, that position can very well be clarified by this Court.

8. Accordingly, these Civil Revision Petitions are rejected with the following observations.

- (a) That the revision petitioners can deposit the rental arrears as directed by the first appellate Court as a condition precedent by the respective impugned orders, within a period of 30 days from the date of receipt of a copy of this order.
- (b) It is made clear that by such deposit, the revision petitioners shall not be put to any disadvantageous position to agitate their rights before the first appellate Court on the alleged ground that the property itself is a Government Poramboke for which the first respondent / plaintiff cannot claim any right.
- (c) Further, it is made clear that, if the rental arrears, as directed by the first appellate Court as a condition precedent, is deposited, the same shall be kept in the said account only until the final decision of the Appeal Suits is made and under any circumstances, the first respondent / plaintiff shall not be permitted to withdraw the same.

9. With the above observations, these Civil Revision Petitions are dismissed.
No costs. Consequently, connected miscellaneous petitions are also dismissed.

07-11-2019

Index : Yes
Internet : Yes
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R. SURESH KUMAR, J.

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To

The Subordinate Judge,
Gudiyatham, Vellore District.



C.R.P. (NPD)Nos.3598

and 3600 of 2019

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