

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2020

CORAM:

**THE HON'BLE MR.JUSTICE P.VELMURUGAN**

Civil Revision Petition(NPD) No. 1764 of 2012

Ramanujam Mutt Thanneer Pandhal Trust  
rep. by its Trustee  
V. Mounasamy Naidu,  
19, Muthaiah Kandasamy Layout,  
Udumalaipet

... Petitioner

**Vs**

1. Ramanatha Pillai  
Fit Person,  
Arulmighu Krishnasamy Temple,  
Ramanujam Mutt Thanneer Pandhal-Dharmam,  
Periyavalavadi,  
Udumalaipet,

2. Mangammal

3. Chinnal

4. Duraisamy

5. Rathinam

6. Thangapandian

... Respondents

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Prayer: Civil Revision Petition filed under Section 115 Cr.P.C. against the order of the Assistant Commissioner, Revenue Tribunal, Trichy, dated 22.09.2011 made in E.P.No.6 of 2009 in O.P.No.226 of 2007.

For Petitioner : Mr. G. Sumitra

For Respondents : Mr. K. Ganesan, for R1

Ms. Revathy, for  
Mr. R. Nalliyappan,  
for R2, 4 to 6

**ORDER**

The Civil Revision has been filed to set aside the order dated 22.09.2011 made in E.P.No.6 of 2009 in O.P.No.226 of 2007.

2. The Government granted the land measuring 2 cents in S.No.83-A-1-a-2 of Chinnavalavadi Village, Udumalpet Taluk, Coimbatore District in favour of the trustee for the time being for use as a site of a Chatram and water-pandal vide the proceedings of the Board of Revenue in Mis.No.4934 dated 23.12.1935.

3. According to the petitioner, the above said land was granted to the petitioner Mutt and the petitioner herein is the trustee. As per the Government

proceedings dated 23.12.1935, the said grant is conditional grant and they were enjoying the property and fulfilling the object of the trust. Initially one Palanisamy Naidu was cultivating the said property. The rent is Rs.250/- for fasali. Since he has not paid rent from 1984 to 2006 i.e., for 22 years, the arrears of rent totally comes to Rs.5500/-. Hence, the petitioner herein filed a petition for recovery of arrears of rent in A.No.226 of 2007 before the Revenue Court. The Revenue Court, after enquiry, passed an order dated 23.10.2008 and directed the said Palanisamy Naidu to pay the sum of Rs.5500 with the cost of Rs.300. The said Palanisamy has not challenged the said order. Subsequently, the petitioner has filed an Execution Petition before the Revenue Court in E.P.No.6 of 2009. During the pendency of the petition, since the said Palanisamy Naidu died, the respondents 2 to 6 were impleaded as his legal heirs. Further the first respondent herein has also filed an application before the Revenue Court to implead him as one of the parties to the said petition stating that he was appointed as a Fit Person of the Ramakrishna Madam Thaner Panthal Dharmam, Periyavalavadi, Udumalaipet by the HR & CE Department and the Revenue Court also impleaded the first respondent herein in the said Execution Petition. Subsequently, the Revenue Court dismissed the Execution Petition stating that the Palanisamy Naidu has paid the Rs.5500/- arrears of the rent to the first respondent herein since, he is

the Fit Person of the Ramakrishna Madam Thaner Panthal Dharmam, Periyavalavadi, Udumalaipet. and since the tenant Palanisamy Naidu has paid the rent to the first respondent herein, the petitioner herein has no *locus standi* to recover the decree amount. Challenging the said order passed by the Revenue Court, the petitioner is before this Court with this Revision.

4. The learned counsel for the petitioner would submit that the first respondent herein is nothing to do with the petitioner's Trust. The first respondent is officer of the Krishnamasamy Temple. But the property is granted to the petitioner's Trust subject to certain conditions by the Government vide proceedings in Mis.No.4934, dated 23.12.1935. The father of the respondents 2 to 6, namely, one Palanisamy Naidu, was cultivating the land and paying Rs.250/-as rent for fasali to the petitioner. Since from the year 1984 till 2006 the Palanisamy Naidu did not pay the rent, he filed the application before the Revenue Court for recovery of arrears, failing which for eviction. The Revenue Court also passed the order in favour of the petitioner and also directed the Palanisamy Naidu to pay a sum of Rs.5500/- as arrears of rent along with cost of Rs.300/-, (i.e.totally Rs.5800/-). Since the Palanisamy Naidu has not paid the said amount , the petitioner herein had filed Execution Petition in E.P.No.6 of 2009 before the Revenue Court.

During the pendency of the Execution Petition, cultivating tenant Palanisamy Naidu, the sole respondent died and therefore the respondents 2 to 6 herein, who are the legal heirs of the said Palanisamy Naidu, were impleaded as respondents in the Execution Petition. In the meanwhile, the first respondent herein had filed an application in E.A.No.4 of 2010 to implead him as one of the respondents in the Execution Petition stating that the trust was taken over and controlled by the HR and CE Department and he is the Executing Officer of Siri Krishnasamy Temple and appointed as a fit person and hence, he has to be impleaded in the Execution Petition as necessary party and the said petition was allowed. Without giving opportunity to the petitioner, based on the representation made by the first respondent herein, the Revenue Court dismissed the Execution Petition stating that the Palanisamy Naidu has paid the arrears rent of Rs.5500/- along with cost of Rs.300/- to the first respondent herein. Since the petitioner trust is under the control of the H.R & C.E Department, the petitioner is not entitled to recover the money. The Revenue Court failed to consider the fact that the H.R & C.E Department is nothing to do with the present suit property, which was granted only to the Trust and not to the temple. The Ramaujam Madam Thanneer Pandanl Trust was found and maintained by the father of the petitioner. It is purely charitable trust of providing water and permitting the travelers to stay in the

chatram. There is no religious activities in it. This trust is situated nearby and on the southern side of th Krishnasamy Temple. There is no connection with the temple. The Trust is not within the premises of the temple and the Trust is not annexed with the temple. The temple is separate and temple was taken over by the HR and CE department and it was controlled by the H.R & C.E Department. Therefore, so far as the Trust is concerned, it is separate charity and it is not belongs to the temple. The property was granted only to the Trustee for the charities. The income from the properties can be maintained by the trustee as mentioned in the proceedings of the Board of Revenue dated 23.12.1935 in Mis.No.4934.

5. Further the learned counsel for the petitioner would submit that the Revenue Court ought to have directed the first respondent to deposit the arrears of rent into the Credit of O.P.No.226 of 2007 in view of the claim made by the first respondent herein to the office of the Trust, which\_ is separate charity and not annexed with the temple as claimed by the first respondent. The income of the property is not using for religious purpose and only using for charitable purpose. The first respondent is not entitled to receive the rent from the tenant since the first respondent is no way connected with the trust or the property. Therefore, the order of the Revenue Court in O.P.No.226 of 2007 is liable to be set aside.

6. The learned counsel for the first respondent would submit that the first respondent was appointed as a fit person to the Arulmighu Krishnasamy Temple and also Ramanujam Mutt Thanneer Pandhar-Dharmam . Therefore, now the H.R & C.E Department has taken over the temple and also the trust and the first respondent is appointed as a fit person and he is entitled to receive the rent from the tenant and further any order passed by the Authorised Officer, Revision has to be filed before the District Court and therefore this Revision is not maintainable and he has referred Section 22 of the TamilNadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (herein after referred as "Act") . As per Section 22 of the said Act, If they aggrieved with the order passed by the Tribunal /Authorised Officer/ Revenue Court/, they have to file Revision before the District Court. Therefore, without availing the remedy provided under this Act, the Revision filed before this Court is not maintainable.

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7. Heard both sides and perused the materials available on records carefully.

8. The petitioner is the trust represented by its Trustees. It is seen from the records that the property was granted in favour of the trustee as per the proceedings of the Board of Revenue in Mis.No.4934 dated 23.12.1935. In order to fulfill the object of the trust, the land was let out to one Palanisamy Naidu for the rent of Rs.250/- for Fasali and from the rent they have fulfilled the charitable purpose of the said trust. The said Palanisami paid the rent till 1983. Subsequently, the rent for the year 1984 to 2006 has not been paid and the arrears for the 22 fasali year comes to Rs.5500/-. Therefore, the petitioner herein filed a petition before the Revenue Court in O.P.No.226 of 2007 for recovery of the arrears of rent, failing which the said Palanisamy should be evicted from the land. The said petition was allowed by an order dated 23.10.2008. Since the said Palanisamy Naidu has not complied with the order of the Revenue Court, the petitioner herein had filed the Execution Petition in E.P.No.6 of 2009 before the Revenue Court to execute the order passed on 23.10.2008. During the pendency of the said Execution Petition, since the Palanisamy Naidu died, the respondents 2 to 6 herein were impleaded as Legal representative of the said Palanisamy Naidu in the above said Execution Petition. In the meanwhile, the first respondent filed the impleading petition in the E.A.NO.4 of 2010 impleading him in the said Execution Petition stating that the first respondent was appointed as a fit

person by the HR & CE Department and the Arulmighu Krishnasamy Temple and also Ramanujam Mutt Thanneer Pandhar-dharmam were taken over and controlled by the HR & CE Department and the said Palanisamy Naidu has also paid the rent to the first respondent and therefore, he was impleaded and subsequently, E.P.No.6 of 2009 was dismissed by the Tribunal stating that the tenant paid the rent to the Fit Person, first respondent and since the trustee is a private person, he has no locus-standi to recover the claim. Challenging the said order, now the petitioner is before this Court.

9. On a perusal of the record, it is seen that the petitioner has not challenged the order passed in E.A.No.4 of 2010 filed by the first respondent before the Revenue Court. After impleading the first respondent herein as party in the Execution Petition, the Revenue Court has passed the final order in the said E.P.No.6 of 2009 on 22.09.2011. Now, challenging the said final order passed in the said Execution Petition, the present Revision has been filed. Further, as contended by the learned counsel appearing for the first respondent, any order passed under the Chapter III of the Act, they have to challenge the same by filing Revision before the District Court. It is pertinent to refer Section 19 of the said Act, which falls under the chapter III of the Act, which reads as follows :

***" 19. Public trust may evict cultivating tenant in certain cases***

*(1) Any public trust may evict any cultivating tenant-*

*(a) who, if in arrear on the date of the commencement of this Act with respect to the rent payable to the public trust, does not pay such rent within a month after such date, or who in respect of the rent payable to the public trust after the date of the commencement of this Act, does not pay such rent within a month after such rent becomes due; or*

*(b) (i) who has done any act or has been guilty of any negligence which is destructive of, or injurious to, the land or any crop thereon; or*

*(ii) who not being a member of the Armed Forces in Service) has altogether ceased to cultivate the kind; or*

*(c) who has used the land for any purpose not being an agricultural purpose; or*

*(d) who has contravened consecutively for two crops the provisions of subsection (1) or (2) of Section 27; or*

*(e) who has willfully denied the title of the public trust to the land.*

*2(a) A cultivating tenant under any public trust may deposit before the authorised officer the rent, or if the rent be payable in kind, its market value on the date of deposit, to the account of the public trust.*

*(i) in the case of rent in arrear on the date of the commencement of this Act, within a month after such date;*

*(ii) in this case of rent accrued due after the date of the commencement of this Act, within a month after the date on which the rent accrued due.*

*(b) The authorised officer shall cause notice of the deposit to be issued to the trustee of the public trust and determine, after a summary enquiry, whether the amount deposited represents the correct amount of rent due from the cultivating tenant. If the authorised officer finds that any further sum is due, he shall allow the cultivating tenant such time as he may consider just and reasonable having regard to the relative circumstances of the public*

*trust and the cultivating tenant for depositing such further sum inclusive of such costs as the authorised officer may allow. If the authorised officer adjudges that no further sum is due, or if the cultivating tenant deposits within the time allowed, such further sum as is ordered by the authorised officer, the cultivating tenant shall be deemed to have paid the rent within the period specified in clause (a) of sub-section(1) . If having to deposit a further sum, the cultivating tenant fails to do so within the time allowed by the authorised officer, the trustee of the public trust may evict the cultivating tenant as provided in sub-section (3) .*

*(3)(a) The trustee of every public trust seeking to evict a cultivating tenant falling under sub-Section (1) shall, whether or not there is an order or decree of a Court for the eviction of such cultivating tenant, make an application to the authorised officer.*

*(b) On receipt of such application, the authorised officer shall, after giving a reasonable opportunity to the trustee of the public trust and the cultivating tenant to*

*make their representations, hold a summary enquiry into the matter and pass an order either allowing the application or dismissing it and in a case falling under clause (a) of sub-section (1) in which the cultivating tenant had not availed of the provisions contained in sub-section (2), the authorised officer may allow the cultivating tenant such time as he considers just and reasonable having regard to the relative circumstances of the public trust and the cultivating tenant for depositing the arrears of rent payable under this Act inclusive of such costs as he may direct. If the cultivating tenant deposits the sum as directed, he shall be deemed, to have paid the rent under clause(b) of Sub-section (2). If the cultivating tenant fails to deposit the sum as directed, the authorised officer shall pass an order for eviction;*

*Provided that the authorised officer shall not direct the cultivating tenant to deposit such arrears of rent as have become time barred under any law of limitation for the time being in force. "*

10. Further it is useful to refer Section 22 of the said Act, which reads

as follows :-

*" The District Court may call for and examine the record of any authorised officer in respect of any proceedings under this Chapter to satisfy itself as to the regularity of such proceeding or thle corretness, legality or propriety of any decision, or order passed thereon; and if, in any case, it appears to the District Court that and such proceeding, decision or order should be modified, annulled or reversed or remitted for reconsideration, it may pass orders accordingly:*

*Provided that the District Court shall not pass any order prejudicial to any party unless he has been given a reasonable opportunity of being heard. "*

11. Therefore, as per Section 22 of the Act, if at all the petitioner aggrieved by the order of the Revenue Court in E.P.No.6 of 2009 dated 22.09.2011 in O.P.No.226 of 2007, the petitioner ought to have filed a Revision before the District Court.

12. In this regard, it is also pertinent to refer the latest decision of the

Hon'ble Apex Court in the case of ***Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and others /vs/ Tuticorin Educational Society and others*** reported in ***2019(9) Supreme Court Cases 538***, wherein it has been held as follows :-

*" It is true that the availability of a remedy of appeal may not always be a bar for the exercise of supervisory jurisdiction of the High Court. But the High Court should always bear in mind a distinction between: (i) cases where such alternative remedy is available before civil courts in terms of the provisions of the Code of Civil Procedure, and (ii) cases where such alternative remedy is available under special enactments and/or statutory rules and for a provided therein happen to be quasi-judicial authorities and tribunals. In respect of cases falling under the first category, which may involve suits and other proceedings before civil courts, the availability of an appellate remedy in terms of the provisions of CPC, may have to be construed as a near total bar.*

*Otherwise, there is a danger that someone may challenge in a revision under Article 227, even a decree passed in a suit, on the same grounds on which R1 and R2 invoked the jurisdiction of the High Court.*

*Therefore, wherever the proceedings are under the Code of Civil Procedure and the forum is the civil court, the availability of a remedy under CPC, will deter the High Court, not merely as a measure of self-imposed restriction, but as a matter of discipline and prudence, from exercising its power of superintendence under the constitution. Hence, the High Court ought not to have entertained the revision under Article 227 especially in a case where a specific remedy of appeal is provided under the Code of Civil Procedure itself."*

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13. In this case on hand also for the order passed under Section 19 of the Act, there is specific remedy available under Section 22 of the Act.

14. Considering the facts and circumstances of the case, the Civil Revision is dismissed and the petitioner is at liberty to invoke Section 22 of the said Act to file a Revision before the District Court concerned. In case, the petitioner file any Revision before the District Court concerned, the District Court concern is directed to take the Revision on file, if it is otherwise in order and while taking on file, for the purpose of computing limitation, the period which was spent for the revision shall be excluded. Since the order is of the year 2009, the District Court is directed to dispose the revision within a period of 3 months from the date of filing of the revision in accordance with law, if it is filed before it.

**26.08.2020**

mrp

**Note : Issue order copy on 31.08.2020**

To

1. The Assistant Commissioner, Revenue Tribunal, Trichy,
2. The Section Officer, V.R. Section, High Court, Madras

C.R.P No.1764 of 2012

**P.VELMURUGAN,J.**  
mrp



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