

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (NPD) No.2935 of 2018
and CMP No.17104 of 2018

Vaitheeswaran Koil Town Panchayat,
Rep. By its Executive Officer,
Vaitheeswaran Kovil, Sirkali Taluk,
Nagapattinam District. .. Petitioner

Vs.

1. Vellore Thiru Vaidinathasami Devasthanam
Vaithiswarankoil
Rep. By its Hereditary Trustee Shanmuga Desiga
Gnana Sambanda Paramasariya Swamigal
Adina Kartha Dharmapura Adheenam
Vaitheeswaran Kovil, Sirkali Taluk,
Nagapattinam District.
2. Government of Tamil Nadu,
Rep. By its District Collector,
Nagapattinam.
3. Rajam Pillai
Milladi Street,
Vaitheeswaran Koil,
Sirkali Munsif and Taluk. .. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the fair and decretal order of the learned Additional Subordinate Judge, Mayiladuthurai in E.P.No.112 of 2017 in O.S.No.16 of 2005 dated 18.04.2018.

For Petitioner : Mr. P.Dinesh Kumar
for M/s. M.R.Kuyilan

For Respondent : Mr.S.Sounthar

ORDER

This matter is taken up for hearing through Video-Conferencing.

This Revision is directed against an order of delivery passed by the Trial Court in EP No.112 of 2017.

2. The suit was filed by the respondent Temple for recovery of possession after removing the super structure and for mesne profits.

3. The suit was resisted by the Panchayat on various grounds. The claim of the plaintiff was that the Panchayat had encroached upon its property and put up construction. The suit was decreed by the Trial Court on 18.09.2006 after contest. The Temple after waiting for nearly 11 years launched execution in 2017.

4. The Execution Petition was resisted by the panchayat claiming that they are contemplating an Appeal against the decree of the year 2006, the counter was filed on 06.11.2017. The Executing Court rejected the said defence and ordered delivery on 18.04.2018. It is against this order, the present Civil Revision Petition has been filed.

5. Even today, the learned counsel for the petitioner is unable to give details of the appeal. All that, the counsel would says an Appeal has been filed and the same has not been numbered. As already stated the decree is of the year 2006, the Execution proceedings itself were launched after 11 years. In the counter to the Execution proceedings, the petitioner Panchayat had stated that they are contemplating filing an Appeal against

the decree. That statement was made on 06.11.2017, though nearly 3 years lapsed from the said date, the counsel for the petitioner is unable to give the appeal number or any other detail regarding the filing of the appeal.

6. Hence, I do not see any merits in this Revision, the Civil Revision Petition is accordingly **dismissed**. The Executing Court is directed to see that the order of delivery is enforced within a period of two months from to-day with necessary Police Aid, if need be. No costs. Consequently, the connected miscellaneous petition is closed.

24.09.2020

jv
Index: No
Internet: Yes
Speaking order

To

1. The Additional Subordinate Judge,
Mayiladuthurai.
2. The Section Officer,
V.R.Section, High Court of Madras.

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R.SUBRAMANIAN, J.

jv



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