



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2020

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (NPD) (MD)No.1068 of 2015

Arulmigu Mayurnathaswamy Devasthanam,
Rajapalayam, through its
Executive Officer.

: Petitioner/Plaintiff/Revision Petitioner
Vs

M.K.Subramaniaraja : Respondent/Defendant/Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the orders passed in E.P.No.228 of 2005 in O.S.No.536 of 1992, dated 19.12.2014 on the file of Principal District Munsif, Srivilliputtur.

For Petitioner : Mr.S.Manohar
For Respondent : Mr.Y.Prakash

ORDER

This Civil Revision Petition is directed against the order in E.P.No.228 of 2005 in O.S.No.536 of 1992 on the file of the Principal District Munsif Court, Srivilliputtur.

2.The revision petitioner is the plaintiff in the suit in O.S.No.536 of 1992. The suit is for recovery of possession in respect of first schedule property and for permanent injunction and mandatory injunction in respect of second schedule property. Alleging that the defendant/respondent has put up a construction in violation of the decree for injunction, the petitioner filed a petition under Order 21, Rule 32 of C.P.C. to punish the respondent for willful disobedience of the order of injunction granted by the lower Court. Taking note of the fact that the construction was commenced during the pendency of the suit and that the decree for injunction granted by the lower Court is not violated by the respondent and that the decree for mandatory injunction cannot be enforced beyond the period of limitation namely three years, the execution petition was dismissed by the lower Court. Aggrieved by the same, the above Civil Revision Petition is filed.

3.The executing Court has also found that the revision petitioner has not proved that the construction was put up by the respondent after the decree for injunction was granted. Incidentally, the lower Court has recorded a finding that the building was handed over to the revision petitioner and that the same building was let out to the respondent on fresh terms. When the petitioner has taken symbolical delivery of the property and he is in physical possession and enjoyment of the property by collecting rent for the building from the respondent, the petition



filed under Order 21, Rule 32 CPC to punish the respondent for violation of decree for injunction may not be proper.

4.The learned Counsel appearing for the revision petitioner further states that a proceeding has been initiated against the tenant under Section 78 of the Hindu Religious and Charitable Endowment Act and that the Civil Revision Petition may be disposed of without prejudice to the rights to continue the eviction proceedings initiated by the revision petitioner as against the respondent. As discussed above, this Court finds that the order of the lower Court dismissing the petition filed by the revision petitioner is perfectly in order and it is not vitiated by any material irregularity or illegality. Hence, reserving the right of revision petitioner to initiate fresh eviction proceedings against the respondent by invoking the provisions of Hindu Religious and Charitable Endowment Act, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

To

The Principal District Munsif,
Srivilliputtur.

+1 CC to M/s.S. MANOHAR, Advocate (SR-13764[F] dated 06/08/2020)

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KB(14.08.2020) 2P 3C