



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP(MD)No.474 of 2021
and
CMP(MD)No.2559 of 2021

Raja Hussain

... Petitioner

vs.

T.Ramalingam
Hereditary Trustee of
Sri Bala Vinayagar Temple, Madurai,
Through Power agent T.Umayan

... Respondent

Prayer : Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the order dated 04.01.2021 passed in E.A.No.12/2017 in E.P.No.12/2015 in O.S.No.55/2007 on the file of I Additional District Judge, Madurai.

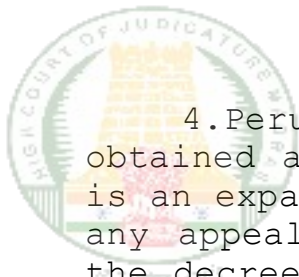
For Petitioner : Mr.K.Sudalaiandi

ORDER

This revision petition has been filed to set aside the order dated 04.01.2021 passed in E.A.No.12/2017 in E.P.No.12/2015 in O.S.No.55/2007 on the file of I Additional District Judge, Madurai.

2.The respondent/plaintiff filed a suit in O.S.No.55/2007 against the petitioner/defendant for delivery of possession of the suit property and has obtained a decree in favour of him. The respondent has filed E.P.No.12/2015 and the petitioner has filed E.A.No.12/2017 stating that the property belonged to the southern railway and the petitioner's father had been residing in the property for more than 50 years and the decree is an exparte decree and therefore, he would pray that since the property is the railway property, the respondent is not entitled to get delivery of the property by taking advantage of the exparte decree. The said E.A was dismissed. Hence, this revision petition.

3.Heard the learned counsel for the petitioner. In view of the order going to be passed, notice to the respondent is not



4.Perusal of record shows that the respondent/plaintiff has obtained a decree on 04.12.2007 in the above suit and the decree is an exparte decree. The decree has not been set aside by way of any appeal or revision and the Executing Court cannot go beyond the decree. It is also an admitted fact that all the proceedings initiated by the petitioner to set aside the exparte decree passed in the suit was negatived against the petitioner upto the High Court and therefore, the petitioner is totally estopped from raising any objection in respect of the suit property that should have been taken in the main suit. Even the I.A.No.493/2007 to set aside the exparte decree has also been dismissed. The assessment of the property in the name of the petitioner will not create any right to the petitioner. Even the evidence of PW4 does not state that the property is belonged to the railway department. Even as claimed by the petitioner that the property is belonged to railway department, assessment would not have been made in the name of the petitioner and therefore, the learned Judge by elaborate discussion, has dismissed the E.A filed by the petitioner, where I do not find any infirmity.

5.Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

The I Additional District Judge,
Madurai.

+1 CC to M/s.K.SUDALAIYANDI, Advocate (SR-11280[F] dated
16/03/2021)

ORDER MADE IN
CRP (MD) No.474 of 2021
DATED : 16.03.2021

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nsv (24.04.2021) 2P 3C

<https://hcservices.ecourts.gov.in/hcservices/>