



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

**W.P(MD)Nos.22727 of 2018, 11037, 11038 and 11039 of 2019
and**

W.M.P. (MD) .Nos.20617 of 2018, 8401, 8402 and 8468 of 2019

W.P(MD)Nos.22727 of 2018

T.Pandarinathan

... Petitioner

Vs.

Sri Meenakshi Sundareswarar
Devasthanams, Madurai through
its Executive Officer

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent authorities to consider the petitioner's representation dated 15.06.2010 as not to interfere with the petitioner's peaceful possession and enjoyment of the house in Door No.19, Ondimuthu Pillai Lane, South Veli Street, Madurai Town pending the disposal of this Writ Petition.

W.P(MD)Nos.11037 of 2019

S.Ponnambalam

... Petitioner

Vs.

Sri Meenakshi Sundareswarar
Devasthanams, Madurai through
its Executive Officer

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to receive the balance amount of sale price to the petitioner's residential house in Door No.16/1, Ondimuthu Maistry Lane, South Veli Street, Madurai Town and to execute a sale deed of the said property to the petitioner.

W.P(MD)Nos.11038 of 2019

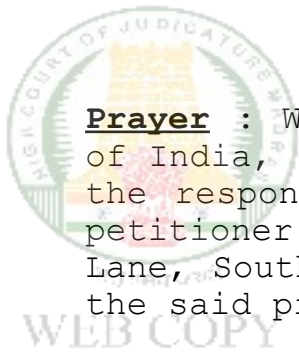
Rajagopal

... Petitioner

Vs.

Sri Arulmigu Meenakshi Sundareswarar
Devasthanams, Madurai through
its Executive Officer

... Respondent



Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to receive the balance amount of sale price to the petitioner's residential house in Door No.18, Ondimuthu Maistry Lane, South Veli Street, Madurai Town and to execute a sale deed of the said property to the petitioner.

W.P(MD)Nos.11039 of 2019

S.Gurusamy

... Petitioner

Vs.

Sri Arulmigu Meenakshi Sundareswarar
Devasthanams, Madurai through
its Executive Officer

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to receive the balance amount of sale price to the petitioner's residential house in Door No.16, Ondimuthu Maistry Lane, South Veli Street, Madurai Town and to execute a sale deed of the said property to the petitioner.

For Petitioners : Mr.N.S.Ponnaiah

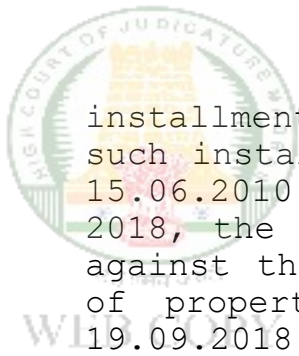
For Respondent : Mr.K.Murali for K.Govindarajan

(In all Writ Petitions)

COMMON ORDER

These four Writ Petitions are filed by persons claiming title to Door No.16, Door No.16/1, Door No.18 and Door No.19, respectively, at Ondimuthu Pillai Lane, South Veli Street, Madurai-1.

2. The respective petitioner claims title to the respective property under a sale deed dated 22.07.1920. Subsequently, a suit was filed by the respondent in O.S.No.123 of 1970 on the file of the I Additional Sub Court, Madurai for recovery of possession of the property. Such suit was decreed by the judgment and decree dated 23.12.1978. The appeal filed against the said judgment and decree was dismissed. As against the judgment and decree in the appeal suit, a review petition is said to have been filed in R.C.M.P.No.3892 of 1986 in A.S.No.9 of 1980. The respective petitioner relies heavily on the order passed in such Review Petition. It is stated that by such order, the respective petitioner was permitted to buy the property for a total sale consideration of Rs.86,170/- (Rupees Eighty Six Thousand One Hundred and Seventy only). Such consideration was directed to be paid in installments, and the entire amount was required to be paid on or before 31.03.1992. The respective petitioner relies upon the receipts issued in respect of the payment of the first and second

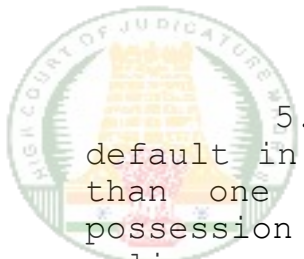


installments. As regards the third installment, it is stated that such installment was refused to be received when it was tendered on 15.06.2010. With regard to the proceedings in C.R.P(MD).No.904 of 2018, the respective petitioner states that the said proceeding was against the E.M.G family, which was in occupation of large extents of property. As such, it is submitted that the order dated 19.09.2018 in C.R.P.(MD).No.904 of 2018 is not binding on the respective petitioner. In this context, the respective petitioner relies upon the order dated 22.12.2020 in C.M.P.(MD).No.12556 of 2019 in Review Application (MD).SR.No.60028 of 2019. By such order, the Review Application of the petitioner was rejected at the SR stage by holding that the petitioner's remedy is not by way of review because the petitioner is not a party to the suit or to the Execution Petition. It is submitted on behalf of the petitioners that the present Writ Petitions are filed pursuant to the said order dated 22.12.2020.

3. On the contrary, it is submitted on behalf of the Temple that the possession of the relevant properties are with the temple. Such possession was taken pursuant to execution proceedings. In fact, the respondent points out that the respective petitioner endeavoured to prevent dispossession by filing proceedings under Section 47 of the Civil Procedure Code. Such proceedings were decided against the respective petitioner. The respondent also contends that the present dispute is a title dispute between the respective petitioner and the Temple. Therefore, it is submitted that Writ Petitions would not lie. As regards C.R.P.(MD).No.904 of 2018, the respondent points out that the said Civil Revision Petition was filed by Ondimuthu, who is said to be the vendor of the respective petitioner. For all these reasons, the respondent submits that the Writ Petitions are liable to be dismissed.

4. The sheet anchor of the case of the respective petitioner is the order issued in CMP.No.3892 of 1986 in A.S.No.9 of 1980. By this order, it appears that the appellants therein were permitted to make the necessary payment in installments. However, it was clearly stipulated therein that the entire amount should be paid on or before 31.03.1992. The said order also sets out the sequitur of non-payment. In particular, it was recorded therein as under:-

"If any default is committed in payment of the principal amount in the manner aforesaid the first default shall be condoned by charging double the interest viz., at 24% P.A. for six months only. But if the default continues for more than a year the appellants shall surrender possession of the land to the Respondent Thirukoil on getting the market value of the superstructure that exist over the said land together with the amounts paid so far."



5. Upon examining the relevant order, it is clear that if a default in making payments under the said order continues for more than one (1) year, the appellants were required to surrender possession of the land to the respondent. The respective petitioner relies upon the receipts issued in terms of the above mentioned order. The first of such receipts is issued sometime in the year 1990. The last payment has been offered in the year 2010. Therefore, it is evident that the respective petitioner is not entitled to purchase the property even in terms of the order referred to. On this issue, it should also be noted that the respondent disputes the validity and authenticity of the order cited by the respective petitioner on the ground that such order does not appear to have been signed by the respondent. Be that as it may, it is evident that the petitioners' case is not sustainable even in terms of the said order.

6. In addition, as correctly pointed out by learned counsel for the respondent, the possession of the property appears to have been taken pursuant to execution proceedings in E.P.No.77 of 2016. The petitioner appears to have filed a petition under Section 47 of the Civil Procedure Code in such execution proceedings. The present Writ Petitions are filed after having failed in all such attempts.

7. In judicial review, the Court does not ordinarily interfere in title disputes. Moreover, in the case at hand, the respective petitioner has already availed of remedies before the relevant civil courts. The relief prayed for in the Writ Petitions is the consideration of the representation dated 15.06.2010 not to interfere with the respective petitioner's peaceful possession and enjoyment of the relevant property. The respondent submits that such possession has already been taken.

8. For all the reasons set out above, the Writ Petitions are liable to be rejected. W.P.(MD).Nos.22727 of 2018, 11037, 11038 and 11039 of 2019 are dismissed without any order as to costs. However, it is open to the respective petitioner to seek relief in respect of amounts tendered towards the sale consideration or the like before the jurisdictional civil court in accordance with law. Consequently, W.M.P.(MD).Nos.20617 of 2018, 8401, 8402 and 8468 of 2019 are closed.

Sd/-

Assistant Registrar (CS-III)

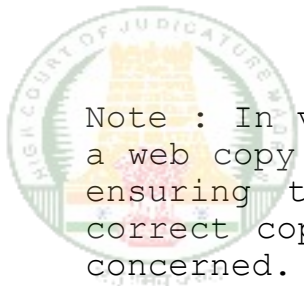
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Sub Assistant Registrar(CS)

tsg/LM

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+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-29639[F]
dated 20/09/2021)

Common order made in
**W.P(MD)Nos.22727 of 2018, 11037,
11038 and 11039 of 2019
17.09.2021**

GC(24.09.2021) 5P 2C