



C.R.P (MD) No.1800 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.09.2022

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CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

C.R.P (MD) No.1800 of 2022

and

CMP (MD) No.8017 of 2022

M.Rukmaniammal

... Petitioner

Vs

Idol of the Arulmigu
Kalyana Pasupatheeswara Swamy,
Arulmigu Kalyana Pasupatheeswara
Swamy Devasthanam,
Represented by its Executive Officer

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records in OSSR No.2259 of 2022 on the file of the learned Principal Sub Judge, Trichy and quash the order dated 03.08.2022 and consequently fix either the Court of the Sub Judge, Karur or the Court of the Principal Sub Judge, Trichy, as the appropriate Court for taking up the petitioner's plaint seeking to declare the judgment and decree date 29.12.2003 passed in O.S.No.227 of 2003 on the file of the learned Subordinate Judge, Tiruchirappalli as null and void.

For Petitioner : Mr.E.J.Ayyappan



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ORDER

WEB COPY This Civil Revision Petition is filed as against the order passed by the learned Principal Subordinate Judge, Trichy in OSSR No.2259 of 2022, dated 03.08.2022.

2.This Court earlier rejected the civil revision petition at the SR stage filed by the petitioner in CRP (MD) SR.No.33030 of 2021 stating that this Court cannot conduct an elaborate enquiry with regard to the averments of fraud made therein, however, granted liberty to the petitioner to approach the appropriate civil forum for seeking the remedy by filing a suit seeking the relief of declaration that the decree passed in O.S.No.227 of 2003 dated 29.12.2003 is null and void. The petitioner has also filed a suit before the Sub Court, Karur for declaration to declare the decree passed in O.S.No.227 of 2003 is *non est* in law. The learned Sub Judge, Karur returned the petition that the judgment, which sought to be declared as null and void is passed by the Sub Judge, Tiruchirappalli and therefore, the petitioner has to present the suit before the Principal Sub Judge, Tiruchirappalli.



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3. Accordingly, the petitioner has presented the suit before the Principal Sub Court, Tiruchirappalli. However, the Court has raised certain objections regarding the maintainability that though the suit property is not within its jurisdiction, the earlier suit was tried pursuant to the directions of this Court. Therefore the petitioner is before this Court with a prayer to direct any of the Courts either at Karur or Tiruchirappalli to take the suit on file and decide the issue on merits.

4. This Court considered the submissions of the learned Counsel and perused the materials placed on record.

5. The petitioner has presented the suit with an averment that the decree in the earlier suit in O.S.No.227 of 2003 was obtained by fraud. This Court in CRP (MD) SR.No.33030 of 201 has also permitted the petitioner to file a fresh suit challenging the decree passed in O.S.No.227 of 2003. The Court at Karur returned the petition stating that the decree, which is sought to be questioned is passed by the Sub Court, Tiruchirappalli. The Sub Court at Tiruchirappalli has returned that the suit



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in O.S.No.227 of 2003 was initially filed before the Sub Court, Karur in O.S.NO.143 of 1989 and based on the orders of this Court in CRP(MD)No.53 of 2003 it was transferred to II Additional Sub Judge, Trichy and renumbered as O.S.No.227 of 2003 and therefore the cause of action for the suit did not arise within the jurisdiction of this Court and further this Court in CRP(MD)SRNo.33030 of 2021 has directed to file a suit before the appropriate civil court and this Court is not appropriate Court to file the suit.

6.Though the suit property is situated in Karur district, the decree, which is sought to be questioned was passed by the learned II Additional Sub Court, Tiruchirappalli. Therefore the learned Principal Sub Judge, Tiruchirappalli is directed to entertain the suit, if it is otherwise in order and proceed further.

7.The civil revision petition is allowed on the above terms. No costs.

29.09.2022

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To
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The Principal Sub Judge,
Tiruchirappalli.



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B.PUGALENDHI , J.

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