



WEB COPY



S.A.No.866 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.866 of 2017
and C.M.P.No.21741 of 2017

Umesh

... Appellant

vs.

1.Arulmighu Veerabadirasami Koil
Rep by its Executive Officer,
Now having office at
Subramania swami temple,
Kumarakottam, West Raja Street,
Kanchipuram.

2.Muthial Reddiar Chathram,
Rep by its Managing Trustee A.Devarajan,
Now having office at No.95,
Pudupettai Street, Alandur,
Guindy, Chennai – 16.

3.Arunachalam

... Respondents

PRAYER: Second Appeal is filed under Section 100 of Code of Civil Procedure, to set aside the Judgment and Decree of the learned Subordinate Judge, Kanchipuram dated 01.06.2017 made in A.S.No.25 of 2009 confirming that of the learned Additional District Munsif, Kanchipuram dated 28.07.2008 made in O.S.No.96 of 2000.

For Appellant : Mr.S.Saravanakumar

For R1 : Mr.R.Bharanidharan



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For R2 : No Appearance

For R3 : Left

J U D G E M E N T

The learned counsel appearing for the appellant filed an affidavit sworn by the appellant stating that he would vacate and handover the possession of the suit property to the 1st respondent-Temple on 31.12.2024. The learned counsel also made an endorsement in the memorandum of grounds that based on the undertaking affidavit filed by the appellant, the second appeal may be dismissed as withdrawn. The undertaking affidavit of the appellant dated 18th December, 2023 and the endorsement made by the learned counsel appearing for the appellant are recorded.

2. The learned counsel appearing for the 1st respondent submitted that in order to compromise litigation, sanction from Commissioner of HR and CE is required under Section 43 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

3. In the case on hand, the 1st respondent has not entered into any compromise with the appellant. The appellant wants to withdraw the second



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appeal with an undertaking that he would vacate and handover the vacant possession of the suit property to the 1st respondent-Temple on 31.12.2024.

Therefore, recording the endorsement made by the learned counsel for the appellant and also undertaking affidavit filed by appellant dated 18th December, 2023, the Second Appeal is dismissed as withdrawn and the appellant is granted time till 31.12.2024 to vacate and handover the vacant possession of the suit property to the 1st respondent-Temple.

4. It is made clear that the appellant shall handover the vacant possession of the suit property to the 1st respondent without dragging the 1st respondent-Temple to execution proceedings. Consequently, the connected civil miscellaneous petition is closed. In the facts and circumstances of the case, there shall be no order as to costs.

5. The Registry is directed to preserve undertaking affidavit filed by appellant dated 18.12.2023.

18.12.2023

Index : Yes/No
Speaking order : Yes/No
Neutral Citation : Yes/No
dm



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To

- 1.The Subordinate Judge,
Kanchipuram.
- 2.The Additional District Munsif,
Kanchipuram.



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S.SOUNTHAR, J.

dm

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18.12.2023