



C.R.P(MD)No.1018 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2023

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1018 of 2023

and

C.M.P(MD)No.4773 of 2023

Lekshmikunju

... Petitioner/Appellant/
Respondent

Vs.

Harikumar

...Respondent/Respondent/
Petitioner

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order, dated 23.10.2019 passed in C.M.A.No.1 of 2018 on the file of the Subordinate Judge, Kuzhithurai, confirming the fair and decreetal order, dated 28.11.2017 passed in I.A.No.356 of 2017 in O.S.No.149 of 1996 on the file of the Principal District Munsif Court, Kuzhithurai.

For Petitioners : M/s.J.Anandavalli

ORDER

The present Civil Revision Petition has been filed against the fair and decreetal order, dated 23.10.2019 passed in C.M.A.No.1 of 2018 on the file of the Subordinate Judge, Kuzhithurai, confirming the fair and



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decreetal order, dated 28.11.2017 passed in I.A.No.356 of 2017 in O.S.No.149 of 1996 on the file of the Principal District Munsif Court, Kuzhithurai.

2. The petitioner is the plaintiff before the Principal District Munsif Court, Kuzhithurai in O.S.No.149 of 1996. The suit was originally filed in the year 1993 as O.S.No.99 of 1993. The suit has been filed for partition of the suit schedule property measuring an extent of 0.38 acres. The petitioner claims to have an interest in 19.250 cents of land out of total extent of 0.38 acres.

3. It is the case of the petitioner that the partition suit has been delayed and that there are about 93 defendants, who have been subsequently impleaded for a period of time and the respondent/12th defendant had threatened to demolish the common temple. The respondent/12th defendant has filed an application in I.A.No.356 of 2017 in O.S.No.149 of 1996 before the Principal Distrit Munsif Court, Kuzhithurai. The Principal Distrit Munsif Court, Kuzhithurai had ordered *status quo*.



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4. Aggrieved by the same, the petitioner had filed an appeal in C.M.A.No.1 of 2019 before the Sub Court, Kuzhithurai, which was dismissed. The above appeal holding the order passed by the Principal Distrit Munsif Court, Kuzhithurai does not warrant any interference.

5. The learned counsel for the petitioner submits that the temple is in dilapidated condition and therefore, it is likely to collapse. It is submitted that it is a common temple and belongs to Tharavadu people. The present civil revision petition has been filed is in variance with the grounds of C.M.A.No.1 of 2019, which was dismissed by the Sub Court, Kuzhithurai by its judgment and decree, dated 23.10.2019 by upholding the *status quo* order, dated 28.11.2017 in I.A.No.356 of 2017 passed by the Principal Distrit Munsif Court, Kuzhithurai.

6. In my view, the present civil revision petition against the impugned order cannot be entertained as fresh cause of action appears to have arisen, which is being canvassed now (i.e) the temple is in dilapidated condition and is likely to collapse. The Principal District Munsif Court is currently ceased of the above partition suit in O.S.No.



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149 of 1996. The petitioner has to file proper application before the Principal District Munsif Court for appropriate relief pending disposal of the suit. If such application is filed, the Principal District Munsif Court shall consider the same and pass appropriate orders. It is also open for the Court to refer the parties for mediation as it is submitted that the parties are in dispute are from the same family.

7. The present Civil Revision Petition stands dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

17.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Subordinate Judge,
Kuzhithurai.
- 2.The Principal District Munsif Court,
Kuzhithurai.
- 3.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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