



C.R.P.(MD).Nos.1314 & 1335 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

**C.R.P.(MD).Nos.1314 & 1335 of 2022
and CMP(MD).Nos.5542 & 5445 of 2022**

Riyas Nisha
Correspondent
Hussainiya Primary School
Ward No.52, D.No.1
Jawaharal Street
Tirunelveli Town
Tirunelveli 627 006

....Petitioner in both revisions

Vs

Mohammed Akbar (died)

1.M.A.Mohamed Kalandhar
President
Town Jamia Mosque
Tirunelveli Town

....Sole Respondent in CRP.No.1335 of 2022
& 1st respondent in CRP.No.1314 of 2022

2.The Waqf Board
No.1, Jafer Sirang Street
Vallal Seethakathi Nagar
Mannadi,Chennai

...2nd Respondent in CRP.No.1314 of 2022

(1st Respondent/President is substituted vide
Court order dated 06.02.2023)



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PRAYER in CRP.No.1314 of 2022: The Civil Revision Petition has been filed under Section 115 of Code of Civil Procedure, to set aside the order dated 21.04.2022 passed in rejecting un-numbered execution application in E.P.No.213 of 2021 in O.S.No.4 of 2006 on the file of the Principal Subordinate Court, Tirunelveli, Waqf Tribunal and allow this civil revision petition.

PRAYER in CRP.No.1335 of 2022: The Civil Revision Petition has been filed under Section 115 of Code of Civil Procedure, to set aside the order dated 06.06.2022 passed in E.P.No.213 of 2021 in O.S.No.4 of 2006 on the file of the Principal Subordinate Court, Tirunelveli, Waqf Tribunal and allow this civil revision petition.

In CRP.No.1314 of 2022:

For Petitioner : Mr.K.N.Guru
For R1 : Mr.P.Rajesh
For R2 : Mr.D.S.Haroon Rasheed

In CRP.No.1335 of 2022:

For Petitioner : Mr.M.Mahaboob Athiff
For Respondent : Mr.M.P.Senthil

COMMON ORDER

CRP(MD).No.1314 of 2022 has been filed by the tenant challenging an order passed by the Subordinate Judge, Tirunelveli wherein he had dismissed the application filed by the Waqf Board for impleading themselves in E.P.No.213 of 2021 in O.S.No.4 of 2006.



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2.CRP.No.1335 of 2022 has been filed by the tenant challenging an order of delivery passed by the Principal Subordinate Judge, Tirunelveli in E.P.No.213 of 2021.

3.The learned counsel appearing for the respondent Mosque submitted that they had filed a suit for evicting the tenant and the matter was challenged up to the Hon'ble Supreme Court by the tenant questioning the title of the Mosque unsuccessfully. Thereafter, E.P.No.213 of 2021 was filed by the Mosque for taking delivery of the property. Pending execution proceedings, the tenant had filed an unnumbered E.A. to implead the Waqf Board which was dismissed and the same is under challenge in CRP.(MD).No.1314 of 2022.

4.The tenant has challenged the consequential delivery order in CRP(MD).No.1335 of 2022. Pending both revisions, the Correspondent of the tenant School had filed an undertaking affidavit before this Court to vacate and hand over possession of the petition premises on or before 05.05.2023. Paragraph No.4 of the said affidavit is extracted hereunder.

“4.I hereby undertakes to vacate and hand over the possession of the petition premises which is the subject matter of O.S.No.4 of 2006 on the file of the Principal Subordinate Judge, Tirunelveli, Waqf Tribunal to the present President of Jamia Mosque



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viz., Mohammed Kalantharon or before 05.05.2023 without fail. I hereby reiterate that I will not seek for any extension of time after the period stipulated above, under any circumstances. I further hereby undertake that I will hand over the property directly to the present President of Jamia Mosque viz., Mohammed Kalandhar on or before 05.05.2023”

5.In view of the above said facts, no further orders are required to be passed in both the revision petitions. In case, if the revision petitioners have not handed over the possession of the property on or before 05.05.2023, the first respondent Mosque is at liberty to take possession of the property without resorting the execution proceedings and with the help of Police.

6.With the above said observations, both the revision petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

16.02.2023

Index : Yes/No
Internet : Yes/No
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To

- 1.The Principal Subordinate Judge
Tirunelveli
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J

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