



C.R.P.(MD)No.2766 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.2766 of 2023

and

C.M.P.(MD)No.14406 of 2023

1.The Tahsildar,
Agastheewarar Taluk,
Kanyakumari District,
Nagercovil.

2.The District Collector,
Kanyakumari District,
Nagercovil.

: Petitioners/Respondents/
Defendants

Vs.

Incorporated and Unincorporate
Devaswoms (Kanyakumari District Temples)
Suchindrum rep. by its
Executive Officer, Thakkar.

:Respondent/Decree Holder/
Plaintiff

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed in E.P.No.16 of 2019 in O.S.No.17 of 2015, dated 20.03.2023 on the file of the learned Principal District Munsif, Nagercoil.



C.R.P.(MD)No.2766 of 2023

WEB COPY

For Petitioners : Mr.A.Baskaran,
Additional Government Pleader
For Respondent : Mr.R.Shankar Ganesh

ORDER

The Civil Revision Petition is directed against the order passed in E.P.No.16 of 2019 in O.S.No.17 of 2015, dated 20.03.2023 on the file of the learned Principal District Munsif, Nagercoil, ordering delivery.

2. It is seen from the records that the respondent as plaintiff has filed a suit in O.S.No.17 of 2015 for permanent injunction restraining the defendants and their men from making any trespass and or making any constructions in the suit property and for mandatory injunction directing the defendants for removal of the constructions made in the suit property.

3. It is further evident from the records that since the defendants have not filed any written statement, they were set ex-parte and ex-parte decree came to be passed on 17.06.2017.



C.R.P.(MD)No.2766 of 2023

WEB COPY

4. The learned Additional Government Pleader appearing for the petitioners would submit that they have filed an application for setting aside the ex-parte decree along with application under Section 5 of the Limitation Act to condone the delay of 487 days in filing the petition under Order IX Rule 13 C.P.C and the same is pending in I.A.No.1 of 2019.

5. It is also not in dispute that meanwhile, the decree holder has laid the execution petition and after hearing both sides and also perusing the records, the learned Judge has passed the impugned order, dated 20.03.2023, ordering delivery. Challenging the order of delivery, the present Civil Revision Petition came to be filed.

6. The main contention of the petitioners is that when the application under Section 5 of Limitation Act, in I.A.No.1 of 2019 is pending before the very same Court, the learned trial Judge, without proceeding the enquiry in the said application, has proceeded with the execution petition and passed the impugned order.



C.R.P.(MD)No.2766 of 2023

WEB COPY

7.The learned counsel for the respondent would submit that though the revision petitioners have filed the above petition in 2019, the same is pending as they were not ready.

8. Considering the above facts and circumstances of the case and also taking note of the submissions made by the learned counsel on either sides, the learned Principal District Munsif, Nagercoil, is directed to proceed with the enquiry in I.A.No.1 of 2019 and dispose of the same within a period of one month from the date of receipt of copy of this order. The impugned order of delivery is not to be effected till the disposal of the petition in I.A.No.1 of 2019.

9. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

08.12.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
das



WEB COPY



C.R.P.(MD)No.2766 of 2023

To

- 1.The Principal District Munsif, Nagercoil.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD)No.2766 of 2023

K.MURALI SHANKAR,J.

das

Order made in
C.R.P.(MD)No.2766 of 2023
and
C.M.P.(MD)No.14406 of 2023

Dated : 08.12.2023