



C.R.P.(MD) No.1453 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.06.2023

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THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P.(MD) No.1453 of 2023

and

C.M.P.(MD) No.7242 of 2023

1.M/s.Jai Auto Industries,
Rep. by its Managing Partner Kohulji,
S/o.M.D.Pattabiram,
Having office at Bye Pass Road,
Sri Ram Nagar, Madurai.

2.M.P.Rajah
M/s.Jai Auto Industries,
Rep. by its partner Rajah,
S/o.M.D.Pattabiram,
Having office at Bye Pass Road,
Sri Ram Nagar, Madurai.

... Petitioners

Vs.

Arulmigu Meenakshi Sundareswarar
Devasthanam, Madurai,
Rep. by its Executive Officer,
South Adi Veethi,
Madurai.

... Respondent

Civil Revision Petition filed under Section 115 of Code of Civil Procedure, 1908, to set aside the fair and decretal order dated 28.02.2023 passed in E.A.No.113 of 2017 in E.P.No.130 of 2011 on the file of the Principal Sub Court, Madurai.



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For Petitioners : Mr.T.Mohan,
Senior Counsel
for Mr.M.Saravanan

For Respondent : Mr.S.Manohar

ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order dated 28.02.2023 passed in E.A.No.113 of 2017 in E.P.No. 130 of 2011 on the file of the Principal Sub Court, Madurai.

2. The petitioners are the judgment debtors in O.S.No.1 of 1984 filed by the respondent temple to recover the land measuring an extent of 24 Cents in S.No.62/5A which was purchased by the petitioners *vide* Sale Deed dated 19.01.1980 bearing Document No.108/1980.

3. The aforesaid land of 24 Cents purchased by the petitioners forms part of the land measuring an extent of 3.39 Acres, out of which, 1.12 Acres was acquired by the Government of Tamil Nadu for the purpose of forming bye-pass road. Out of remaining 2.27 Acres of land, Marimuthu Pillai appears to have sold 24 Cents of land to one



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M/s.Vairavan and Algammai @ Soon Gandhi *vide* Sale Deed dated 18.03.1964. M/s.Vairavan and Algammai @ Soon Gandhi sold the land to one A.Rathinam *vide* Sale Deed dated 25.09.1966.

4. Thereafter, the Settlement Tahsildar ordered for issuance of Patta under Section 8(2)(i)(b) of the Tamil Nadu Minor Inam (Abolition and Conversion Ryotwari) Act, 1963 *vide* Proceedings in S.R.No.40/M1 Act/MD/64 dated 26.02.1970. The Tahsildar, Madurai (West) *vide* R.O.C.No.8613 of 1970 fixed the fair rent and ordered the said A.Rathinam to pay the same in 20 installments. The said A.Rathinam is said to have been paid the entire amount on 21.09.1971. The said A.Rathinam thereafter sold the land to one Maniammal on 25.07.1973. The said Maniammal got Patta in Patta No.566 dated 15.05.1974.

5. Meanwhile, it appears that the learned Subordinate Judge, Madurai has cancelled order in Proceedings in S.R.No.40/M1Act/MD/64 dated 26.02.1970 of the Settlement Tahsildar by an order dated 04.03.1975 in C.M.A.No.316 of 1970. It was held that the respondent was the owner of the property.



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6. Thereafter, the said Maniammal sold the land to M/s.Danand Industries on 27.02.1974. From M/s.Danand Industries, the petitioners have purchased the land *vide* Sale deed dated 19.01.1980 after order dated 04.03.1975 was passed by the learned Sub Judge, Madurai in C.M.A.No. 316 of 1970.

7. It is in this background, the respondent filed O.S.No.1 of 1984 which came to be decreed on 15.11.1988. The petitioners filed an appeal before this Court in A.S.No.208 of 1989. This Court has dismissed the appeal on 04.08.2010. S.L.P.(Civil) No.28201 of 2011 filed by the petitioners was also dismissed by the Hon'ble Supreme Court on 13.01.2012.

8. In the light of above Judgment and Decree dated 15.11.1988 in O.S.No.1 of 1984, the respondent temple decree holder filed E.P.No.130 of 2011. In the said proceedings, the petitioners filed E.A.No.113 of 2017 under Section 47 of the Code of Civil Procedure, 1908 which has been dismissed by the Principal Sub Court, Madurai *vide* impugned order dated 28.02.2023. Aggrieved by the same, the present Civil Revision Petition has been filed.



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9. The learned senior counsel for the petitioners submits that the petitioners are the *bonafide* purchasers of the property. It is submitted that the order that was passed in C.M.A.No.316 of 1970 on 04.03.1975 was without notice to subsequent purchasers. It is further submitted that the petitioners being the *bonafide* purchasers have put up a construction, wherein, there are tenants. Therefore, the petitioner may be given a temporary reprieve, so, the petitioner can approach the Commissioner of Hindu Religious and Charitable Endowment Department for regularization of possession.

10. It is further submitted that almost 40 years have gone since the petitioners have been in possession of the property, wherein, there are commercial activities being carried out. The learned senior counsel for the petitioners further submits that the impugned order has also not met with the requirements of Section 47 of the Code of Civil Procedure, 1908 and the rights of the petitioners have not been properly addressed.

11. Per contra, the learned counsel for the respondent submits that the impugned order is well reasoned and requires no interference. It is submitted that the suit is of the year 1984. The suit was decreed as early



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as 15.11.1988. It is further submitted that almost 4 decades, i.e. 39 years have gone since the suit was filed and 3½ decades, i.e. 35 years have gone since the suit was decreed. The learned counsel for the respondent submits that though 35 years have gone since the suit was decreed, the respondent is unable to enjoy the fruits of the decree and therefore prays for dismissal of this Civil Revision Petition.

12. It is further submitted that the question of recognizing the possession at this stage cannot be countenanced as the petitioners had to approach the H.R. & C.E. Department right after O.S.No.1 of 1984 was filed and that having lost all attempts before the trial court, appellate court, and even before the Hon'ble Supreme Court, in the E.P. proceedings, the petitioners cannot be allowed to delay further in Execution of the decree. It is further submitted that the orders are proposed to be passed in the E.P. tomorrow. At this eleventh hour, entertaining this Civil Revision Petition by giving interim reprieve will prejudice the rights of the respondent.

13. Heard the learned senior counsel for the petitioners and the learned counsel for the respondent.



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14. The petitioners have no case to interfere with the impugned order as admittedly the petitioners had no rights to purchase the property from their vendors as the original patta that was granted to the patta holder under Section 8(2)(i)(b) of the Tamil Nadu Minor Inam (Abolition and Conversion Ryotwari) Act, 1963 *vide* Proceedings in S.R.No.40/M1 Act/MD/64 dated 26.02.1970, stood cancelled by the learned Sub Judge, Madurai by its order dated 04.03.1975 in C.M.A.No.316 of 1970.

15. The petitioners have been in possession of the property. There are commercial establishments and tenants in the premises. Therefore, while disposing the present Civil Revision Petition, I am inclined to give a temporary reprieve to the petitioners to approach the Commissioner of H.R. & C.E. Department to regularize their possession and/or to work out alternate remedy, if any, in the manner known to law. This temporary reprieve shall be available to the petitioners only for a period of 60 days from today, i.e. 21.08.2023.

16. It is made clear that the petitioners shall file their representation before the Commissioner of H.R. & C.E. Department, within a period of 7



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days from today. Pending consideration of the proposed representation of the petitioners before the Commissioner of H.R. & C.E. Department, the E.P. proceedings shall be kept in abeyance till 21.08.2023. In case the petitioners fail to secure any favourable orders from the Commissioner of H.R. & C.E. Department, the Execution Court shall proceed further with the E.P.No.130 of 2011.

17. It is made clear that the temporary reprieve given to the petitioners by this Court shall come to an end on 21.08.2023. Any other reprieve to the petitioners shall be subject to such decision which may be taken by the Commissioner of H.R. & C.E. Department.

18. This Civil Revision Petition stands disposed of with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

22.06.2023

Internet: Yes/No

Index: Yes/ No

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Issue Order copy on 23.06.2023



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- 1.The Principal Sub Court,
Madurai.
- 2.The Additional Sub Court,
Madurai.



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C.SARAVANAN, J.

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