



CRP(MD)Nos.1355 and 1356 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.02.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRP(MD)Nos.1355 and 1356 of 2014

and

M.P(MD) No.1 of 2014

Marimuthu

... Petitioner
(in both petitions)

versus

1.Velmurugan (died)

2.Neelavathi

3.Muthulakshmi

4.Porkkodi

5.Sangeetha

6.Karuppa Kameswaram

... Respondents
(in both petitions)

(Respondents 2 to 6 are brought on record as Lrs of the deceased sole respondent vide Court Order dated 07.11.2022 made in C.M.P(MD) Nos.6143 and 6144 of 2019)



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Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the fair and decreetal orders passed by the learned Principal District Judge, Theni in Tr.O.P.Nos.21 and 22 of 2013 in O.S.Nos.18 and 27 of 2009, dated 03.04.2014.

For Petitioner : Mr.R.Balakrishnan

For Respondents : Mr.George Raja
for M/s.Ajmal Associates
(in both petitions)

COMMON ORDER

With the consent of both parties, these civil revision petitions are taken up for final hearing today.

2. C.RP(MD) No.1355 of 2014 was filed by one Marimuthu, who is the plaintiff in O.S.No.18 of 2009 on the file of the learned Principal District Munsif at Theni. It is the suit for declaration that the plaintiff is entitled to run the theatre, namely, Crescent theatre, on rotation basis along with the defendant. O.S.No.27 of 2009 was also filed by the very same revision petitioner/plaintiff seeking mandatory injunction to remove the



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obstruction made by the respondent/defendant in the vacant portion of the theatre before the learned Principal District Judge at Theni. Thereafter, the respondent/defendant, namely, one Velumurgan filed O.S.No.28 of 2013 on the file of Additional District Court cum Sessions Judge at Periyakulam. Simultaneously, the respondent also filed two transfer original petitions bearing TR.O.P.Nos.21 & 22 of 20 to transfer O.S.Nos.18 & 27 of 2009 on the file of the Principal District Munsif Court at Uthamapalayam to the file of Additional District Court cum Sessions Court at Periyakulam and the same was allowed on 03.04.2014. As against the same, the petitioner preferred these two civil revision Petitions before the Court.

3. Today, the learned counsel for the petitioner by producing e-court statement of O.S.No.28 of 2013 on the file of learned Additional District Judge and Sessions Judge, Periyakulam, brought to the notice of this Court that the said suit for partition was dismissed for default and a copy of the judgment is also produced before this Court.



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4. Per contra, the learned counsel for the respondent stated that e-court services reflect that the order of stay was pending in O.S.No.28 of 2013 and the same was extended from the date of filing till 08.11.2019 and thereafter, it seems that the case was posted for trial on 22.11.2019, 16.012.2019 and 10.01.2020. Further, the learned counsel for the respondent submitted that even in these two civil revision petitions, there is an order of interim stay and that it could not be possible for the trial Court to dispose of the case in such circumstances.

5. Heard the learned counsel on both sides and perused the materials placed on record.

6. Taking into consideration of the judgment passed in O.S.No.28 of 2013 on the file of the learned Additional District Judge cum Sessions Judge, Periyakulam, dated 10.01.2020, this Court is of the considered view that the contentions submitted by the petitioner are correct and in view of the dismissal of the partition suit before the learned Additional District Judge cum Sessions Judge, Periyakulam, both the civil revision petitions



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cannot be kept pending any more and the same are liable to be dismissed as infructuous. Accordingly, these Civil Revision Petitions are dismissed as infructuous. However, in case the respondent files any restoration petition before the trial Court, the petitioner is at liberty to file revive the revision petitions before this Court. No costs.

16.02.2023

NCC : Yes/ No
Index : Yes / No
Internet : Yes / No
cp

To

- 1.The Principal District Judge,
Theni.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI,J.

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