



W.P(MD).No. 13518 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2023

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.13518 of 2014

S.Rajasekar

..... Petitioner

- Vs-

1. The District Collector,
Karur District,
Karur.

2. M/s.Krishna Mandiram Trust,
Represented by its Trustee,
Janakiraman,
Ranimangammal Street,
Karur – 1.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to remove the seal affixed on the premises bearing Old. D.No. 28, New D.No.23, Ranimangammal Street, Karur -1.

For Petitioner : Mr.T.Antony Arul Raj

For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader- For R1
: Mr.V.Balaji - For R2



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ORDER

This writ petition has been filed seeking for a writ of Mandamus, directing the first respondent to remove the seal affixed on the premises bearing Old.D.No.28, New D.No.23, Ranimangammal Street, Karur -1.

2. The case of the petitioner is that the second respondent herein had filed a suit for declaration and recovery of possession of the various properties and the suit was decreed as ex-parte. Against the order, the petitioner had moved an application to set aside the ex-parte decree along with the condone delay application which was dismissed. Against which, he filed a Civil Revision Petition before this Court. The second respondent had also filed an application to restrain the petitioner from operating the premises. This Court had granted an order of injunction. As the injunction order was not complied with, a contempt petition was filed. Pursuant to the notice of contempt, the first respondent had sealed the premises, in which, wine shop was running. Thereafter, the Civil Revision Petition filed by the petitioner came to be dismissed and therefore, Civil Miscellaneous Petition



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filed by the second respondent along with the same, was also dismissed. Therefore, the order of injunction granted in favour of the second respondent is no more in force. But however, the wine shop continue to be under the seal affixed by the first respondent and in spite of representation given by the petitioner to the first respondent to remove the seal, the same has not been removed. Therefore, he approached this Court by filing this instant petition.

3. He would contend that an order of injunction obtained by the second respondent had already been effaced and that in the suit filed by the second respondent, they have admitted that the petitioner is in possession of the property by seeking prayer for recovery of possession. The petitioner now should be put back in possession of the property, therefore, he would pray this Court to order the writ petition as prayed for.

4. Countering his arguments, the learned counsel appearing for the second respondent would submit that in spite of the decree of declaration and recovery of possession he has not been able to execute the same, as there are various parties in the Execution Petition and under one pretext or



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the other have been dragging on the issues for almost more than three decades from the date of the decree. He would submit that the property was sealed, pursuant to the contempt petition filed by the petitioner for violation of the interim order granted by this Court. This Court had, while dealing with the Civil Revision Petition had called for the proceedings in the Execution Petition and after analyzing the various material fact, directed the execution Court to dispose of the same within a period of three months from the date of receipt of a copy of the order. On remand the executing Court having found that the legal heirs of certain deceased against who the suit has been dismissed as abated has been added as parties to the execution petition has dismissed the Execution Petition with liberty to the second respondent to file a fresh Execution Petition. Being aggrieved the second respondent has filed a Civil Revision Petition. Pending the same it has filed a fresh Execution Petition, therefore a memo was filed before this Court and the Civil Revision Petition was dismissed. He would submit that as regards to the premises of the petitioner is concerned, no one is in occupation of the property and the property is in dilapidated condition.



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5. Mr.K.A.Sureshkumar, Divisional Excise Officer, Karur, had filed a report on behalf of the first respondent, indicating the present position of the building by enclosing the photo graphs.

6. A perusal of the photographs, suggests that the building is in dilapidated condition and could not be put in to use by anyone whomsoever. Unfortunately, the decree obtained 30 years back is still yet to be executed. It is now submitted that the earlier execution petition in E.P.No.166 of 2002 was dismissed with liberty to the petitioner/second respondent to file a fresh Execution Petition. The second respondent had challenged the same before this Court. Pending the said Civil Revision Petition, the second respondent had initiated a fresh executive proceedings in E.P.No.38 of 2014 on the file of the Sub Court, Karur. Thereafter, the Civil Revision Petition was not pressed, in view of the filing of fresh execution petition.

7. In view of the fact that the decree had been passed 30 years back, the Sub Court, Karur is directed to dispose of the Execution Petition in E.P.No.38 of 2014 along with the connected other applications and dispose



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the same within a period of four months from the date of receipt of a copy of this order. Till such time *Status Quo* shall be maintained.

8. With the above said direction, this Writ Petition is disposed of.

There shall be no order as to costs.

9. Post for reporting compliance on **04.07.2023**.

01.03.2023

NCC: Yes / No

Index : Yes / No

Internet : Yes / No

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To

1. The District Collector,
Karur District,
Karur.

2. The Sub Court,
Karur.



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K.KUMARESH BABU, J.

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