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C.M.A.No.3421 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3421 of 2024

And

C.M.P.No.28744 of 2024

Pazhanivel

... Appellant

Vs.

1.The Executive Officer,
A/m SriBava Owhshatheeswarar Swamy Thirukovil,
Sannathi Street,
Thiruthuraipoondi,
Tiruvarur District.

2.The Assistant Commissioner
Hindu Religious and Charitable Endowment,
Tiruvarur,
Tiruvarur District.

3.The Inspector,
Hindu Religious and Charitable Endowment,
Thiruthuraipoondi,
Tiruvarur District.

4.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Nagapattinam,
Nagapattinam District.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Order 43 Rule 1 (r) of the



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Civil Procedure Code, to set aside the fair and decreetal orders passed in I.A.No.1 of 2023 in O.S.No.32 of 2023 dated 25.06.2024, on the file of the Court of Principal District Judge, Tiruvarur and allow the said I.A. by allowing this C.M.A.

For Appellant : Mr.A.Muthukumar
For Respondents : Mr.D.Gopal
Government Advocate

J U D G M E N T

This appeal has been filed seeking to set aside the order passed in I.A.No.1 of 2023 in O.S.No.32 of 2023 dated 25.06.2024, on the file of the Court of Principal District Judge, Tiruvarur.

2.The learned counsel appearing for the appellant submitted that the appellant filed suit in O.S.No.32 of 2023 for declaration declaring that the suit property does not belong to the first respondent Temple and for injunction. During the pendency of the suit, the petitioner filed interlocutory application in I.A.No.1 of 2023 under Order 39 Rule 2 of C.P.C. for grant of temporary injunction restraining the respondents, their men, agent from interfering with the peaceful possession and enjoyment of the appellant and not to proceed with eviction till the disposal of the petition and the said interlocutory application was



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dismissed by the Court of Principal District Judge, Tiruvarur and challenging the same, the appellant filed this appeal.

3.The learned counsel appearing for the appellant further submitted that during the pendency of this appeal, the first respondent Temple took possession of the suit property from the appellant and a portion of the superstructure was demolished and in the remaining portion, there are tenants. The learned counsel further submitted that the appellant has no objection for collecting rents from the tenants by the first respondent and this Court may direct the first respondent to not to demolish the superstructure till the disposal of the suit and possession may continue with the first respondent till the disposal of the suit.

4.The learned Government Advocate appearing for the respondents submitted that already possession of the property was taken, thereby, the trial Court refused to grant injunction. This Court may confirm possession with the first respondent, however, the possession of the first respondent will be subject to the result of the suit pending before the trial Court.



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5. Heard the learned counsel appearing for the appellant and the learned Government Advocate appearing for the respondents and perused the materials available on record.

6. Admittedly, possession of the suit schedule property was already taken by the first respondent from the appellant and hence there is no need for grant of injunction and that was appreciated by the trial Court and the interlocutory application filed by the appellant was rightly dismissed.

7. This Court, considering the submissions made on either side, directs the first respondent to collect rent from the tenants in the suit schedule property and deposit the same in a separate account of the Temple. This Court further directs that the superstructure in the suit schedule property shall not be demolished till the disposal of the suit in O.S.No.32 of 2023 pending before the Court of Principal District Judge, Tiruvarur. The Court of Principal District Judge, Tiruvarur is directed to decide the issue with regard to the deposited amount at the time of final disposal of the suit in O.S.No.32 of 2023.

8. With the above directions, the civil miscellaneous appeal is



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dismissed. The order passed in I.A.No.1 of 2023 in O.S.No.32 of 2023 dated 25.06.2024, on the file of the Court of Principal District Judge, Tiruvarur, is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

21.12.2024

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Court of Principal District Judge,
Tiruvarur.

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5.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Nagapattinam,

5/6



Nagapattinam District.

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