



C.R.P.(MD)Nos.133 and 134 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)Nos.133 and 134 of 2024
and C.M.P.(MD).No.593 of 2024

President
Thaththamangalam Panchayat
Manchanallur Taluk
Trichy District.

... Petitioner/Petitioner/Judgment Debtor/
4th Defendant in both petitions

Vs.

Arulmighu Ayyanar Mandu and Perumal Thirukovil
rep. by its Hereditary Trustee Sevanthilingam
S/o Late TS Mahalingam
No.6, Kallar Street, Manchanallur Taluk,
Trichy District.

... Respondent/Respondent/Decree Holder/
2nd Plaintiff in both petitions

COMMON PRAYER : Civil Revision Petitions are filed under Section 115 of Code of Civil Procedure, to set aside the fair and decretal order dated 01.11.2023 in E.A.Nos.4 and 5 of 2021 in E.P.No.41 of 2019 in O.S.No.236 of 2013 on the file of the District Munsif, Lalgudi.

For Petitioner : Mr.K.Prabhakar



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COMMON ORDER

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Challenging the fair and decreetal order, dated 01.11.2023 passed in E.A.Nos.4 and 5 of 2021 in E.P.No.41 of 2019 in O.S.No.236 of 2013 on the file of the District Munsif, Lalgudi, this petition has been filed.

2.Considering the facts and circumstances of the case, notice to the respondent is dispensed with. Heard the learned counsel for the petitioner.

3.Suit in O.S.No.236 of 2013 was filed by the temple called Arulmighu Ayyanar Mandu and Perumal Thirukovil, through its trustee, seeking removal of encroachment and for cost before the District Munsif Court, Lalgudi. It was decreed by the Judgment and decree, dated 07.02.2017. In that suit proceedings this petitioner is arrayed as 5th defendant. On behalf of the defendants Mr.P.Saravanan, learned counsel entered appearance. When the case was called for cross examination of PW1, the counsel on record reported no instructions. So all the defendants were called absent and set *exparte* and thereafter, on the basis of the records produced by the plaintiff, the suit was decreed. After long



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gap, with 1507 days delay, an application was filed by this petitioner to set aside the *exparte* decree. That was also numbered as I.A.No.1 of 2021. In the meantime, E.P.No.41 of 2019 was filed by the decree holder. In the E.P. Proceedings, he did not appeared. But, delivery was also ordered. So he was set *exparte* in the E.P. Proceedings also. To set aside the *exparte* order and recall the delivery order, he filed these two applications in E.A.Nos.4 and 5 of 2021. E.A.No.5 of 2021 was filed to set aside the *exparte* decree along with counter. Both petitions were dismissed. Against which, these two revision petitions have been filed.

4.The grievance of the petitioner is that water tank is available in the disputed property, it supplies water to the entire village. If any removal is ordered, the entire Village will be affected. So he filed I.A.No.1 of 2021 to set aside the *exparte* order. The respondent also appeared and filed counter. Pending enquiry, delivery has been ordered on 08.03.2021. Delivery warrant was also issued on 24.04.2021.

5. The grievance of the petitioner is genuine. Without deciding the I.A.No.1 of 2021, warrant has been issued for taking delivery. So there



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shall be a direction to the learned District Munsif, Lalgudi to dispose of the I.A.No.1 of 2021 within a period of one month from the date of receipt of a copy of this order. Till then the entire E.P. Proceedings in this case shall be kept in abeyance. Depending upon the order passed in I.A.No.1 of 2021, further proceedings will be taken up by the trial Court in the E.P. Proceedings.

6. With the above said directions these petitions are disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

29.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The District Munsif, Lalgudi.

2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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