



CRP(MD).Nos.1779 and 1780 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01.08.2024

CORAM

THE HON'BLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

**C.R.P(MD)Nos.1779 and 1780 of 2024
and
C.M.P(MD).Nos.10141 and 10155 of 2024**

C.R.P(MD).No.1779 of 2024

M.JahirHussain

... Petitioner

-Vs-

1.Arulmighu Meenakshi Sundareswarar
Devasthanam,
through its Executive Officer, Madurai.

2.A.P.Ragupathy
3.A.P.Boopathy
4.A.P.Pasupathy
5.Velayee

... Respondents

C.R.P(MD).No.1780 of 2024

1.R. Vairammal
2.R.Ramesh
3.R.Senthilkumar

... Petitioners

Vs.,



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1.Arulmighu Meenakshi Sundareswarar
Devasthanam,
through its Execute Officer, Madurai.

2.P.Soundararajan

3.A.P.Ragupathy

4.A.P.Boopathy

5.A.P.Pasupathy

... Respondents

COMMON PRAYER: Civil Revision Petitions are filed under Section 115 of the Code of Civil Procedure, to set aside the fair and Ex-order of the learned I Additional Subordinate Judge, Madurai in E.A.Nos.125 and 126 of 2021 in E.A.Nos.12 and 13 of 2020 in E.P.No.90 of 2006 in O.S.No.301 of 2005 dated 28.03.2023.

in both petitions

For Petitioner : Mr.S.Madavan

For R-1 : Mr.S.Manohar

COMMON ORDER

These two civil revision petitions arise out of identical orders and arguments are also identical and as such, are taken up for disposal by way of this common order.



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2. Heard Mr.S.Madhavan, learned counsel representing on behalf of the petitioner and perused the materials record of the case.

3. The learned counsel for the petitioners would submit that the petitioners are third party claimants and filed claim petitions. The same have to be dealt with as if they are suits. The claims of the third parties are that their vendors have got title and the temple is not the owner of the Iruvaram and therefore, the temple does not have predominant title over the property and once their vendors have the title over the property, they have rightly purchased long back and are in position and enjoyment of the same. The said claim petitions are being resisted by the temple. In the claim petitions, applications are filed for appointment of an Advocate Commissioner to visit the suit properties and note down the physical features. The learned counsel would submit that even the Revenue authorities have denied of having any FMB sketch and A-Register was also not produced before the trial Court, the claim of the petitioners is that they are in enjoyment of the property by putting up buildings. Therefore, it is just a necessary that an Advocate Commissioner be appointed for this said purpose.



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4. The learned counsel appearing on behalf of the respondent /Devasthanam would submit that it is the temple, which has the Patta and therefore, has got the decree and as such, after contesting the suit. According to him, the applications are filed only to drag on the proceedings and the execution petition is now aged about 18 years.

5. I have considered the rival submissions made on either side and perused the materials record of the case.

6. As far as the claim petitions are concerned, it is an issue of title. The averments of the claimants are contained in paragraph two of the claim petitions. They claim title through their predecessors from one A.Pandi, son of Annamalai Ambalam and his brother Ayyanan Ambalam. It is their contention that the temple did not derive the title from the Inam property. The temple's case is otherwise. Ultimately, the *lis* involved in the claim petitions is to decide whether or not the temple is the owner of the property or whether the Kudivaram was in favour of the petitioners' predecessor and whether any proceedings under the concerned Act was passed and if so, in



whose favour. As far as the question of identity of the property is concerned, the same is not in dispute.

7. The learned counsel for the petitioners would submit that the petitioners have to prove that they are residing there by putting up a building. As a matter of fact, while dealing with the said averments contained in paragraph four of the claim petitions, the temple has denied the *locus-standi*, but however in the succeeding paragraph has only contended that the claimants' vendor did not get any title in the Inam property. Therefore, there was no necessity for the Advocate Commissioner to be appointed to prove that there was a building. Therefore, in that view of the matter, since the issue involved is only with reference to title, which has to be decided by the trial Court by considering dispassionately the evidence on record, I am of the view that no interference is called for, though the trial Court did not consider the same and dismissed only on the ground that the execution petition is 16 years old. Even considering the application of the petitioners on merits, I am of the view that in the facts and circumstance the case, the local inspection or a report by the Advocate Commissioner is not necessary considering the



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nature of the *lis* between the parties. Accordingly, finding no merits, these Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

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Index : Yes / No
Internet : Yes/ No
Rmk

To
1.I Additional Subordinate Judge, Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

Rmk

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