



C.R.P(MD)No.1179 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 25.07.2024

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(MD)No.1179 of 2024

and

C.M.P(MD).No.6720 of 2024

Arunambigai

... Petitioner

Vs.

1.Arulmigu Sri Kalyana Pasupatheeswaraswamy,
Sri Kalyana Pasupatheeswaraswamy Devasthanam,
Karur, rep., by its Executive Officer

2.Valarmathi

...Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order of the fair and decreetal dated 03.04.2024 made in I.A.No.1 of 2024 in A.S.No.24 of 2024 on the file of the Additional Subordinate Court, Karur.

For Petitioner

: Mr.P.Arun Jayatram

For Respondent

: Mr.P.Athimoolapandian(for R1)
No appearance (for R2)



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ORDER

This civil revision petition is directed against the order dated 03.04.2024 made in I.A.No.1 of 2024 in A.S.No.24 of 2024 on the file of the Additional Subordinate Court, Kaur.

2. In the said Interlocutory Application, the petitioner herein has prayed for stay of all further proceedings in E.P.No.113 of 2012 pending disposal of the appeal suit. The petitioner herein had filed a claim petition in the execution petition stating that he has purchased an extent of 61 cents and is in possession and enjoyment of the same and as a third party claimant, his claim has to be allowed and his property should be excluded from the execution of the decree. The said prayer was dismissed by the trial Court, as against which, the present appeal suit is filed. Pending the appeal suit, the stay is now refused, as against which, the petitioner is before this Court.

3. The learned counsel appearing on behalf of the respondent Temple would submit that the decree is passed as against a larger extent and the petitioner is claiming title only in respect of 61 cents. Even the petitioner's case is frivolous and the trial Court has rightly rejected his claim, anyway, the temple



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is contesting the appeal suit. He would also submit that the 61 cents is being in the enjoyment of the petitioner herein by putting up thached shed etc., and he has rented it out for a monthly rent of Rs.8000/-.

4. When this Court made a query to the learned counsel appearing on behalf of the petitioner, on instructions, when the matter is adjourned, the learned counsel for the petitioner submits that the said rent can be ordered to be deposited to the file of the appeal suit until the appeal suit is decided.

5. In view thereof, considering the fact that the petitioner has made a claim petition and the merits of his claim has now to be finally decided in the appeal suit, I am of the view that interim stay can be granted, however, on the said condition to deposit the amount to the credit of the execution petition so that depending on the ultimate decision in the appeal suit, the temple or the petitioner as the case may be can withdraw the said amount. The appeal suit can also be directed to be disposed of expeditiously.

6. In view thereof, the Civil Revision Petition is ordered on the following terms:-



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(i)The order of the learned Additional Subordinate Judge, Karur, dated 03.04.2024 made in I.A.No.1 of 2024 in A.S.No.24 of 2024 is hereby set aside;

(ii)I.A.No.1 of 2024 in A.S.No.24 of 2024 is allowed on condition that every month, the monthly rent of Rs.8000/- shall be deposited to the credit of E.P.No. 113 of 2012;

(iii)The further proceedings in E.P.No.113 of 2012 shall go on except in respect of the 61 cents alone, to which the petitioner is claiming title and the same is subject matter of A.S.No.24 of 2024;

(iv)Depending on the ultimate outcome of the appeal suit, the rent so deposited can be withdrawn either by the petitioner Arunambigai or by the respondent /Temple, as the case may be;

(v)Considering the fact that the temple instituted the suit in the year 2002, the learned trial Court is requested to take up the appeal suit for expeditious disposal.



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No costs. Consequently, connected Miscellaneous Petition is closed.

25.07.2024

NCC: Yes/No
Index: Yes/No
Rmk

To
The Additional Subordinate Judge, Karur.



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D.BHARATHA CHAKRAVARTHY, J.

Rmk

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