



C.R.P. (MD).No.1973 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD)No.1973 of 2019

Janab S.Amjad Peeran
Present Wakf Trustee,
No.11, North Street,
Ganapathi Nagar,
Thanjavur Town and Munsif.

... Petitioner/Petitioner/Decree Holder
-vs-

1. Janab A.M. Ibrahim Ali

2. N.Chandrasekaran

... Respondents/ Respondents /
Judgment Debtors

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, against the fair and decreetal order dated 11.09.2018 passed in E.P.No.61 of 2017 in R.C.O.P.No.5 of 1997 on the file of the District Munsif Court, Thanjavur.

For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.V.Chandrasekar – for R2

: No appearance- R1



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ORDER

The present Civil Revision Petition has been filed by the decree holder in R.C.O.P.No.5 of 1997 on the file of the District Munsif Court, Thanjavur, challenging the dismissal of execution proceedings.

2. One S.S.Peeran represented by his power agent S.Ahamed Peeran had filed R.C.O.P.No.5 of 1997 on the file of the District Munsif Court, Thanjavur, for evicting the first respondent herein who is the tenant. The rent control proceedings were dismissed by the trial Court, on the ground that the property is a Wakf property and therefore, rent control proceedings are not maintainable. The said SS.Peeran had filed R.C.A.No.8 of 2005, before the Rent Control Appellate Authority/Principal Subordinate Judge, Thanjavur. The Rent Control Appellate Authority had arrived at a finding that the tenant having entered into a lease agreement, cannot turn around and contended that the property is a Wakf property and hence, the rent control proceedings are not maintainable. On the said premise, the appeal was allowed and eviction was ordered. The order of eviction by the Appellate Authority has attained finality.



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3. After the order of eviction, the said S.S.Peeran had passed away and one Janab S.Amjath Peeran claiming himself as the Trustee of Syed Sha Mian Khadiri Thaikkal (Pettai Masthan Thaikkal) had filed E.P.No.61 of 2017. The Executing Court, after considering the fact the R.C.O.P was filed in the individual capacity of S.S.Peeran but execution proceedings had filed treating as a Wakf property by the present Wakf Trustee, proceeded to dismiss the Execution Petition. Challenging the same, the present Civil Revision Petition has been filed.

4. According to the learned counsel appearing for the revision petitioner, in the long cause title of R.C.O.P.No.5 of 1997, it has been specifically mentioned that S.S.Peeran is the junior Trustee of Syed Sha Mian Khadiri Thaikkal. In paragraph No.1 of the plaint also, it is mentioned that the property belongs to the Trust. The issue whether the rent control proceedings would be maintainable in respect of a Wakf property was decided by the Rent Control Appellate Authority in favour of the Trust. The said order having attained finality, the tenant cannot now raise the said dispute during the



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execution proceedings. The Execution Court had not properly considered the fact that the property belongs to the Trust and in the capacity as Trustee, the said S.S.Peeran had filed the eviction proceedings. Hence, he prayed for allowing the Civil Revision Petition.

5. Per contra, the learned counsel appearing for the second respondent had pointed out that rent control proceedings were initiated only in the individual capacity. The reference about the Trusteeship refer to the avocation of the said individual. Therefore, when the decree is in favour of an individual, the Execution proceedings cannot be initiated by the Trust. Hence, he prayed for sustaining the order passed by the Execution Court.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. A perusal of rent control proceedings indicates that it was filed in the individual capacity of one S.S.Peeran and his avocation was mentioned as Junior Trustee of the Thaikkal. The decree for eviction has also been issued only in favour of the individual namely, Janab S.S.Peeran. Since the said



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S.S.Peeran had passed away, the execution proceedings have been initiated by the next Trustee by name, Janab S.Amjad Peeran as if there is a decree in favour of the Trust.

8. Therefore, it is clear that the decree holder has not filed any execution proceedings and the Execution Court has rightly dismissed the execution petition. This Court does not find any merit in the Civil Revision Petition. However, it is open to the original decree holder or his legal heir to initiate appropriate proceedings, if permissible under law.

9. With the above said observation, this Civil Revision Petition stands dismissed. There shall be no order as to costs.

29.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The District Munsif Court,
Thanjavur.



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