



C.R.P.(MD)No.2121 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 10.01.2024

PRONOUNCED ON: 20.02.2024

CORAM

**THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR**

**C.R.P.(MD)No.2121 of 2022**

**and**

**C.M.P.(MD)No.9779 of 2022**

**and**

**C.M.P.(MD)No.9802 of 2022**

**in**

**C.R.P.(MD)SR.No.59063 of 2022**

**C.R.P.(MD)No.2121 of 2022:**

P.R.Ramalingam (died)

1.Vasanthakumari

2.R.Vishnuram Saravanavel

3.Vaishnavi Padmaja

: Petitioners/Respondents 5 to 7/  
L.Rs of the 4<sup>th</sup> defendant

Vs.

1.The Idol of Arulmighu

Kalyana Pasupatheeswarasamy Koil,

Arulmighu Kalyana Pasupatheeswara

Samy Koil, Karur,

represented by its Executive Officer.

: 1<sup>st</sup> Respondent/  
Decree-holder/Plaintiff



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2.N.V.Pasupathy

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3.Karur Sri Pasupatheeswara Ayyappa  
Seva Sangam Trust,  
represented by its Secretary,  
No.37, South Madavilagam Street,  
Karur Town.

4.N.VKrishna Iyer : Respondents 2 to 4/  
Judgment debtors 1 to 3/  
Defendants 1 to 3

5.S.Soundara Nayaki  
6.P.S.K.Vivekanandan  
7.R.Sathyakala  
8.S.Kalyana Pasupathi  
9.S.Jeganathan  
10.P.A.Sathasivam  
11.A.Nirmala  
12.K.Balasubramanian  
13.R.Arulanandam  
14.v.Sanmugasundaram  
15.S.Manjula  
16.S.thangamani  
17.A.sakthivel  
18.R.Gokul Kanna  
19.B.Panchavarnam  
20.S.Rajeshkumar  
21.S.Kalaivani  
22.P.Arunkumar

: Respondents 5 to 22

Respondents 5 to 22 are impleaded vide  
Court order dated 13.12.2022 made in  
C.M.P.(MD)No.11353 of 2022)



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**PRAYER:-** Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure to call for records and to set aside the order dated 21.07.2022, passed in E.P.No.77 of 2018 in O.S. No.95 of 2004, on the file of the Principal District Judge, Karur.

For Petitioners : Mr.A.Saravanan  
for Mr.R.J.Ayyappan

For Respondents : Mr.P.Athimoola Pandian  
for R.1  
: Mr.K.Hemakarthiskeyan  
for R.5 to R.22

: No Appearance  
for R.3

: R2 and R.4 – dispensed with

**C.M.P.(MD)No.9802 of 2022:**

1.K.Lakshmi  
2.K.Senthil Kumar  
3.P.K.Mahesh Kumar : Petitioners/Petitioners

Vs.

1.The Idol of Arulmighu  
Kalyana Pasupatheeswarasamy Koil,  
Arulmighu Kalyana Pasupatheeswara  
Samy Koil, Karur,  
represented by its Executive Officer.

2.N.V.Pasupathy  
3.Karur Sri Pasupatheeswara  
Ayyappa Seva Sangam Trust,  
represented by its Secretary.



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4.N.V.Krishna Iyer

P.R.Ramalingam(died)

5.Vasanthakumari

6.R.Vishnuram Saravanavel

7.Vaishnavi Padmaja

: Respondents / Respondents

PRAYER in C.M.P.(MD)No.9802 of 2022: Petition filed 151 of the Code of Civil Procedure to accept the cause title of the petitioners in E.A.No.1 of 2021 in E.P.No.77 of 2018 in O.S.No.95 of 2004, on the file of the Principal District Judge, Karur.

PRAYER in C.R.P.(MD)SR No.59063 of 2022: Petition filed under Section 115 of the Code of Civil Procedure against the order dated 28.06.2022 passed in E.A.1 of 2021 in E.P.No.77 of 2018 in O.S.No.95 of 2004, on the file of the Principal District Judge, Karur.

For Petitioners : Mr.A.Saravanan  
for Mr.E.J.Ayyappan

For Respondents : Mr.P.Athimoola Pandian  
for R.1

### **COMMON ORDER**

The Civil Revision Petition is directed against the order passed in E.P.No.77 of 2018 in O.S.No.95 of 2004, dated 21.07.2022, on the file of



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the Principal District Court, Karur, ordering delivery against the revision petitioners / respondents 5 to 7.

2. The first respondent as plaintiff has filed the suit in O.S.No.95 of 2004, on the file of the District Court, Karur against four persons including one P.R.Ramalingam to declare that the suit properties are belonging to the temple and for recovery of possession. It is not in dispute that the suit was decreed on 28.02.2005 and the appeals preferred, challenging the judgment and decree passed in O.S.No.95 of 2004 in A.S.(MD)Nos.19 to 21 and 39 of 2005 before this Court were dismissed vide common judgment dated 01.11.2017 and thereby confirmed the judgment and decree passed in O.S.No.95 of 2004. Thereafter, the first respondent has laid the execution petition for taking delivery in E.P.No.77 of 2018, on the file of the District Court, Karur against three defendants and against the legal representatives of the deceased fourth defendant P.R.Ramalingam, who died subsequent to the dismissal of the appeal. The third respondent/second respondent/second defendant has filed a counter statement and the revision petitioners who are the respondents 5 to 7 / legal heirs of the deceased fourth defendant have filed their counter statement. Pending enquiry, the decree holder



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has filed a memo stating that the third respondent / second respondent has entered into a fresh lease deed with the decree holder on 31.12.2020 and on that basis execution petition was ordered to be dismissed in respect of the third respondent/second respondent. The Executing Court by specifically observing that the revision petitioners / respondents 5 to 7 have not raised any valid reason or ground to resist the execution, that the Executing Court cannot go behind the decree and that therefore, there is no impediment to proceed with the execution against the revision petitioners / respondents 5 to 7, ordered delivery as against the revision petitioners / respondents 5 to 7. Aggrieved by the order of delivery, the legal representatives of the deceased fourth defendant have preferred the present revision.

3. Admittedly, the first revision petitioner is the wife, the second revision petitioner is the son and the third revision petitioner is the daughter of the deceased P.R.Ramalingam – fourth defendant in the suit. The case of the revision petitioners is that the said P.R.Ramalingam had purchased one half share of the suit property on the western side vide sale deed dated 02.04.2002 from the first defendant, that the said P.R.Ramalingam subsequent to the disposal of the suit sold the western



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half portion of the suit property to one P.Karuppasamy and his wife K.Lakshmi on 17.08.2005 and as such, they had become successors in interest over the western half share of the suit property, that though the decree holder has impleaded the legal representatives of the deceased fourth defendant, they have not impleaded the purchasers ie., Karuppasamy and Lakshmi from the fourth defendant in the execution petition and that therefore, the order of the executing Court directing the revision petitioners to deliver the vacant possession of the property now owned by the purchasers Karuppasamy and Lakshmi cannot be sustained and as such, the decree cannot be executed.

4. It is not in dispute that one Radhakrishnan filed a writ petition in W.P.(MD)No.22682 of 2018 directing the respondents 6 to 8 therein to take appropriate action to remove the encroachment found in the temple lands and the Hon'ble Division Bench of this Court directed the authorities to file action taken report with regard to the recovery of the properties.

5. Pending revision, 18 persons claiming to be the residents of Venkateswara Apartment as tenants under the said Karuppasamy have



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filed a petition in C.M.P.(MD)No.11353 of 2022 to get themselves impleaded in the revision and that since the contesting respondents have not raised any objections, the impleading petition was ordered to be allowed and consequently the proposed parties were impleaded as respondents 5 to 22 in the present revision.

6. It is also not in dispute that in pursuance of the said directions, the temple authorities have issued common notice to all the respondents (Respondents 5 to 22) directing them to remove their encroachments and hand over the possession of the property and that thereafter all of them have given affidavits undertaking to hand over the symbolic possession of the property in their occupation.

7. In the meanwhile, the present revision petitioners / legal representatives of the deceased fourth defendant have filed a petition in E.A.No.1 of 2021 in E.P.No.77 of 2018 seeking orders to implead the said Karuppasamy and Lakshmi alleged to be the purchasers from the fourth defendant P.R.Ramalingam, the executing Court by observing that the decree has been passed on 28.02.2005 and after the decree, the fourth defendant sold the property to the proposed parties on 17.08.2005, that



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the legal representatives of the fourth defendant have filed the third party impleading the petition to implead the purchasers and that the same would amount to abuse of process of Court, rejected the petition on 28.06.2022.

8. Aggrieved by the rejection order, the wife and the sons of the deceased Karuppasamy, have filed the revision along with the present application in C.M.P.(MD)No.9802 of 2022 to accept the cause title of the petitioners therein in E.A.No.1 of 2021 in E.P.No.77 of 2018 in O.S.No.95 of 2004 on the file of the Principal District Court, Karur.

9. It is also not in dispute that an application under Section 47 C.P.C., came to be filed in E.A.No.2 of 2022 in E.P.No.77 of 2018 and after enquiry, the same was ordered to be dismissed on 06.08.2022. It is pertinent to note that when the petition in C.M.P.(MD)No.11353 of 2022 was taken up for hearing on 24.11.2022, a learned Judge of this Court has observed that the petitioners therein/proposed parties (now respondents 5 to 22) have also made a representation to the temple to treat them as tenants and they are willing to pay the rent to the temple / decree holder and that a decision in that regard was yet to be taken by the HR&CE



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Department. The learned Judge by further observing that the petitioners therein are residing in the suit properties for several years as tenants, their plea to regularise them as tenants was pending before the Department for consideration and that in view of the orders passed in the execution petition, has granted interim order for restoring the electricity connection which was disconnected earlier.

10. The first respondent / decree holder, when the matter was taken up for hearing earlier, has filed an affidavit stating that in pursuance of the directions of this Court dated 24.11.2022, the Commissioner, HR&CE, Chennai has passed a proceeding in Na.Ka.No.22020/2023 M2, dated 04.08.2023 approving the respondents 5 to 22 as tenants, that the Joint Commissioner, HR&CE Department has fixed the fair rent in his proceedings in Se.Mu.Pa.Mu.No.11245/2023/A4, dated 22.11.2023 as per the order of the Commissioner of HR&CE, dated 04.08.2023, that the respondents 5 to 22 are paying the rent and is being received by the first respondent. In the said affidavit, it has been further stated that the petitioners in C.M.P.(MD)No.9802 of 2022 in C.R.P.(MD)SR.No.59063 claimed to have purchased the property through sale deed dated 17.08.2005 and the said purchase was made pending first appeal, that the



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purchase is hit by the doctrine of lis pendense and as such, the sale is invalid under the Transfer of Property Act, as the subsequent purchasers is well aware of the suit proceedings and since the vendors are having no right, the same has to be followed by the purchasers. The learned Counsel for the first respondent would submit that since the respondents 5 to 22 have been recognised as tenants and fair rent had already been fixed, the delivery order in respect of portion of the suit property in possession of the respondents 5 to 22 may be set aside and the delivery order in respect of the remaining portion may be confirmed.

11. Admittedly, the suit was decreed on 28.02.2005 and the appeals were dismissed on 01.11.2017. Though the fourth defendant Ramalingam purchased western half share of the suit property vide sale deed dated 02.04.2002, he sold the same to the said Karuppasamy and Lakshmi on 17.08.2005 subsequent to the decree. Since the said Karuppasamy and Lakshmi had purchased the western half share of the property subsequent to the decree, they are bound by the decree passed against their vendor – fourth defendant. As already pointed out, the execution petition was laid against the legal representatives of the fourth



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defendant and after taking note of their objections, the executing Court has passed the impugned order directing the revision petitioners to deliver the property. The revision petitioners have challenged the order of executing Court mainly on the ground that the subsequent purchasers from the fourth defendant were not impleaded in the executing petition. But such a stand cannot legally be sustained. The revision petitioners have also filed an execution application before the executing Court to implead the subsequent purchasers and the said application was rejected by the executing Court.

12. It is not in dispute that one Murugesan claiming to be the tenant under Karuppasamy has filed a petition in the present revision to implead him as 23<sup>rd</sup> respondent. But this Court, taking note of the objections of the decree holder that since the said Murugesan is not at all a tenant and without any iota of right has filed the above application seeking his impleadment, dismissed the petition, vide order dated 11.10.2023. As rightly contended by the learned Counsel for the decree holder, the revision petitioners have not canvassed any other valid reason or ground to impugn the order of delivery. Hence, this Court concludes



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that the revision petitioners are not entitled to get any relief and as such, the revision is devoid of merits and the same is liable to be dismissed.

13. Since the first petitioner and the husband of the first petitioner and the father of the petitioners 2 and 3 – Karuppasamy had purchased western half portion of the suit property from the fourth defendant subsequent to the decree, the impugned order passed in E.A.No.1 of 2021 rejecting their impleadment cannot be found fault with. Consequently, this Court is not inclined to accept the cause title of the petitioners in E.A.No.1 of 2021 in E.P.No.77 of 2018 in O.S.No.95 of 2004, on the file of the Principal District Court, Karur and as such, the above petition is liable to be dismissed.

14. In the result, the delivery order dated 21.07.2022 passed in E.P.No.77 of 2018 in O.S.No.95 of 2004, on the file of the Principal District Court, Karur in respect of the property in possession of the respondents 5 to 22 is set aside and the delivery order in respect of the remaining property shall stand confirmed. With the above modifications, the Civil Revision Petition is dismissed and consequently, the connected Miscellaneous Petition is also dismissed. C.M.P.(MD)No.9802 of 2022 is



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dismissed and consequently C.R.P.(MD)SR.No.59063 of 2023 is also rejected at the SR stage itself. There shall be no order as to costs.

**20.02.2024**

NCC : Yes : No  
Index : Yes : No  
Internet : Yes : No  
SSL

To

1. The Principal District Court, Karur.
2. The Record Keeper,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**K.MURALI SHANKAR,J.**

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PRE-DELIVERY JUDGMENT MADE IN

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20.02.2024