



C.R.P. (MD) No. 2100 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2024

CORAM

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P. (MD) No. 2100 of 2023

and

C.M.P. (MD) No.10589 of 2023

1.Chinnammal

2.Saraswathi

3.Lakshmi

... Petitioners/

Defendants 10,13,14

-VS-

1.Idol Sri Balasubramaniya Swamy,

Sri Balasubramaniya Swamy Devasthanam Vennaimalai,

Vennaimalai, Rep. by its Executive Officer,

Vennaimalai Post, Karur Taluk,

Karur District.

... ^{1st} Respondent/Plaintiff

2.K.Periyasamy

3.A.V.Palanisamy

4.K.Subramaniyan

5.Ganeshkumar

6.M.Kandasamy

7.Kannammal

8.K.Mahalingam

9.Subramaniyan

10.Papayee

11.K.Manimegalai

12.K.Subha

13.K.Surendhiran

14.Chellammal



C.R.P. (MD) No. 2100 of 2023

15. Maheswari
16. Gandhimathi

... 2 to 16 Respondents/
1 to 9, 11, 12 & 15 to 20 Defendants

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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 20.06.2023 made in E.P.No. 9 of 2017 in O.S.No.62 of 2010 on the file of the Principal District Judge, Karur and allow this Civil Revision Petition.

For Petitioners : Mr.C.Veekeswaran

For Respondents : Mr.S.Madhavan for R1

Mr.M.P.Senthil for R7

R2 to R6, R8 to R16 – No Appearance

ORDER

The Civil Revision Petition is directed against the order dated 20.06.2023 made in E.P.No.9 of 2017 in O.S.No.62 of 2010.

2. The suit is filed by the Temple for ejectment of the defendants from the suit property stating that the Temple is the owner of the property and the defendants are in occupation without any right, title or interest and therefore, the suit was filed for declaration and recovery of possession. The suit was decreed on 12.01.2015 and has become final. The execution petition is filed to



C.R.P. (MD) No. 2100 of 2023

order the delivery of the properties. In the execution petition, the respondents have contested the matter and after hearing all the respondents, the execution Court has allowed the execution petition and now ordered delivery. As against which, the present civil revision petition is filed.

3. When the Civil Revision Petition came up for hearing, the learned Counsel appearing on behalf of the petitioners would submit that even though originally the petitioners herein sought to contest the suit on the ground that the Temple did not have title and the very same contention was again sought to be taken even in the execution petition, now the petitioners have given up the said plea and are now seeking to be recognized as tenants under the respondent/ Temple. They have already made an application on 25.08.2023, which was considered by the Commissioner, Hindu Religious and Charitable Endowments Department ('HR & CE Department' in short) under Section 34-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 ('the Act' in short) and the same has been forwarded to the jurisdictional Joint Commissioner for consideration and the matter is pending. The learned Counsel would submit that therefore, the Temple can at least consider whether it is willing to continue the petitioners as it's tenants on mutually agreed rent. If so, the petitioners can continue as tenants.



C.R.P. (MD) No. 2100 of 2023

WEB COPY

4. Mr.M.P.Senthil, the learned Counsel appearing on behalf of seventh respondent would submit that they are also making the same request.

5. It can be seen that the suit is of the year 2010. Even in an uncontested situation, it has now taken 14 years and the Temple is yet to realise its property and only now the delivery is ordered. It is at this stage, driven to the wall, the petitioners who were originally occupying the property have now come up with a proposal willing to be tenants under the Temple. After considering the best interests of the temple, it is for the Joint Commissioner to consider and make a recommendation to the Commissioner and receipt of which, the Commissioner has to ultimately decide whether the property has to be leased out to the petitioners as well as the seventh respondent and if at all they are willing to lease out, what is the quantum of rent. If there is some agreement between the parties, then the same parties can be continued to be in possession in the capacity of the tenant of the first respondent/Temple. If the Temple/HR&CE Department is not willing, the petitioners and the seventh respondent shall vacate the property.



C.R.P. (MD) No. 2100 of 2023

WEB COPY

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

(i) Within one week from today, i.e., on or before 25.07.2024, the petitioners as well as the seventh respondent shall file an affidavit of undertaking that they will on their own vacate and hand over the property to the first respondent/Temple on or before 31.12.2024, in the event of the Temple/HR&CE Department not recognizing them as tenant and not entering into any tenancy agreement;

(ii) Upon filing of this affidavit, the proposal dated 21.03.2024 in Na.Ka.No.80870/2023/M2 shall be processed and considered by the authorities and final orders can be passed by taking into account the best interests of the Temple and whether the land can be leased out to the petitioners and if so, what is the quantum of the rent and if the same is agreeable between both parties, appropriate orders can be passed by the Commissioner permitting to lease out the property and the said exercise shall be concluded on or before 30.11.2024.



C.R.P. (MD) No. 2100 of 2023

WEB COPY

(iii) Upon filing of the undertaking affidavit, the seventh respondent can also make a similar request in the meanwhile and the same can also be jointly taken up along with the case of the petitioners;

(iv) If the lease is executed in favor of the petitioners/seventh respondent, they will be continuing in the suit property as tenants and if the first respondent Temple/HR&CE Department does not agree to lease out as per the undertaking affidavit, they have to quit and deliver vacant possession voluntarily on their own on or before 31.12.2024 as undertaken by them before this Court.

Consequently, the connected Miscellaneous Petition is closed. No costs.

18.07.2024

NCC : Yes/No

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C.R.P. (MD) No. 2100 of 2023

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1. The Principal District Court, Karur.



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C.R.P. (MD) No. 2100 of 2023

D.BHARATHA CHAKRAVARTHY, J.

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C.R.P. (MD) No. 2100 of 2023

18.07.2024