



C.R.P. (MD) No.2870 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **29.04.2024**

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKEVALU

C.R.P. (MD) No. 2870 of 2023

and

C.M.P. (MD) No. 14930 of 2023

Arulmigu Salavai Karuppanasamy Temple,

Yanaikkal, Madurai

Through its Fit Person / Execution Officer,

Arulmigu Jayaveera Anjaneyar Temple,

Simmakkal, Madurai.

... Petitioner

Vs.

1.S.Tamil Selvi

2.C.Thathuperumal

... Respondents

PRAYER: Petition filed under Article 227 of the Constitution of India, to set aside the orders passed in E.A. No. 40 of 2022 in E.P. No. 137 of 2017 in R.C.O.P. No. 257 of 2006 dated 22.09.2023 on the file of the Principal District Munsif, Madurai Town and allow the Revision.



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For Petitioner : Mr. S.Manohar
For Respondents : Mr. C.Shaji Chellan

ORDER

This Civil Revision Petition invoking under Article 227 of the Constitution of India has been filed challenging the order dated 22.09.2023 passed in E.A. No. 40 of 2022 in E.P. No. 137 of 2017 in R.C.O.P. No. 257 of 2006 (hereinafter referred to as the 'impugned order' for short) passed by the Principal District Munsif, Madurai Town (hereinafter referred to as 'Trial Court' for short).

2. It is the case of the Petitioner that it is the absolute owner of the property situate at Door No.73, New Door No.18, Yanaikkal Street, Madurai, but the First Respondent falsely represented as if the said property belongs to her and has collusively obtained an order of eviction dated 27.01.2014 in R.C.O.P. No.257 of 2006 from the Trial Court projecting as if the Second Respondent, who was in occupation in the said property, was her tenant. The application in E.A. No. 40 of 2022 filed by the Petitioner under Section 47



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read with Rule 58 of Order XXI of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC' for short) has been rejected by the impugned order stating that the title of the Petitioner to the property has to be determined in the suit in O.S. No. 894 of 1989, which is pending before the I Additional Sub-Court, Madurai and till it is adjudicated, the Petitioner could not pursue the matter in the execution proceedings in the Trial Court.

3. It has been brought to notice that after the filing of Civil Revision Petition on 30.10.2023, the I Additional Sub-Court, Madurai by judgment and decree dated 25.04.2024 has upheld the title of the Petitioner to the property. Having due regard to that subsequent event, the impugned order is set aside, and E.A. No. 40 of 2022 is restored to the file of the Trial Court to be decided afresh taking into consideration the judgment and decree dated 25.04.2024 in O.S. No. 894 of 1989 passed by the I Additional Sub-Court, Madurai, subject to outcome of any appeal that may be preferred against it.

4. The parties shall appear before the Trial Court on 10.07.2024 for conduct of the proceedings following the prescribed procedure affording full opportunity of hearing to them. The Trial Court while deciding the matter



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afresh, shall not be inhibited or influenced by the impugned order which stands set aside and shall deal with each of the contentions raised and pass reasoned orders on merits and in accordance with law. It shall be ensured that there is atleast one effective hearing every week showing progress of the case and quarterly reports of compliance are sent to the Registrar (Judicial) of this Court till the matter is finally decided.

5. It is needless to add here that on establishing its title to the property, the Petitioner shall not be precluded from working out its rights for eviction of unauthorized occupants from that property under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, before the concerned authority.

In the result, the Civil Revision Petition is ordered on the aforesaid terms. Consequently, connected Miscellaneous Petition is closed. No costs.

29.04.2024

Index : Yes/No
NCC : Yes/No
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TO:

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- 1.The Principal District Munsif, Madurai Town.
- 2.The Section Officer (VR Section),
Madurai Bench of Madras High Court,
Madurai.
3. Arulmigu Salavai Karuppanasamy Temple,
Yanaikkal, Madurai through its Fit Person/
Executive Officer, Arulmigu Jayaveera Anjaneyar Temple,
Simmakkal, Madurai.
4. S.Tamil Selvi,
Door No.15, Lakshmipuram 1st street,
Madurai.
- 5.C.Thathuperumal,
Door No.18, Yanaikkal Street,
Madurai -625 001.



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P.D.AUDIKESAVALU,J.

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