



C.R.P.No.1137 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 02.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.1137 of 2025

1.N.Ramasamy
2.Muthusamy
3.N.Sengottaiyan
4.N.Kulandaivelu
5.Palaniappan
6.Chinnammal
K.Subramani (Died)
7.Saravanakumar

.... Petitioners

Versus

1.The Executive Officer
A/M Kailassanthar Temple,
Kottaimedu,
Kallangattuvalasu Post,
Komarapalayam Agraharam Village,
Tiruchengode Taluk,
Namakkal District

2.Kalaivani

.... Respondents

PRAYER : Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, pleaded to set aside the Fair and Decreetal order of the Principal District Munsif Court at Tiruchengode dated 27.09.2016 in I.A.No.415 of 2015 in O.S.No.360 of 2007.



WEB COPY



C.R.P.No.1137 of 2025

For Petitioners : Mr.P.Valliappan, Senior Advocate
Asst.by Mr.K.M.Hareesh

For R1 : Mr.K.Karthikeyan
Government Advocate (HR & CE)

For R2 : No appearance

ORDER

As against the order of dismissal in I.A.No.415 of 2015 in O.S.No.360 of 2007, dated 27.09.2016, wherein the Principal District Munsif Court, rejected the application filed by the petitioners to restore the suit, the present Civil Revision Petition has been filed.

2. The petitioners have filed a suit in O.S.No.360 of 2007 for the following prayer:-

(a) a decree for permanent injunction interdicting and restraining the defendant, his men, servants, agents and successors from conducting any public auction on 19.09.2007 or any other date in future, for the suit properties

(b) Particular from in any way making any attempt to evict the plaintiffs from out of the suit



WEB COPY



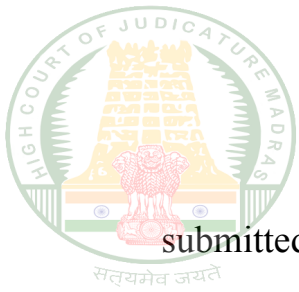
C.R.P.No.1137 of 2025

property forcibly by adopting dilatory back door method and except by due process of law as contemplated under Section 81 of Tamilnadu Public Trust (Regulation of Administration of Agricultural Lands) Act, 1961.

The suit was posted for trial on 27.04.2015. On that day, neither the petitioners nor their counsel appeared before the Court. Hence, the suit was dismissed for default. The petitioners filed an application under Order 9 Rule 9 and 151 C.P.C., to restore the above suit on the same day.

3. It was contended by the petitioners that they were ready with the proof affidavit and documents on 27.04.2015. However, since their counsel was engaged in other court, there was no representation on their behalf and the suit was dismissed. The petition for restoration in I.A.No.415 of 2015 was filed on the same day. The trial Court, disbelieving the petitioners and also holding that the Commissioner of HR & CE was not impleaded as the second respondent in the petition, which would cause injustice, dismissed the petition for non-joinder of necessary parties.

4. Mr.P.Valliappan, learned senior counsel appearing for the petitioners



C.R.P.No.1137 of 2025

submitted that due to miscommunication, the petitioners were unable to contact their counsel on that day, despite the proof affidavit being ready. The trial Court wrongly held that the petitioners had willfully evaded appearing before the Court and dismissed the application. He further submitted that notice had already been served on the Commissioner of HR & CE. However, the Commissioner's name was not printed as the second respondent in the petition and the same was only an inadvertent error. Therefore, he seeks that the order of the trial Court dated 27.04.2015 be set aside and that the suit be restored.

5. Per contra, Mr.K.Karthikeyan, learned Government Advocate (HR & CE) submitted that the trial Court rightly found that the petitioners had willfully evaded arraying the Commissioner as a necessary party and therefore, dismissed the application. He further submitted that though the prayer in the suit is seeking permanent injunction against conducting any public auction on 19.08.2007, such a prayer has become infructuous, due to the long lapse of time. Moreover, the petitioners, despite claiming that they are legal heirs of their father, who was a cultivating tenant of the temple land, have not submitted any documents to substantiate their claim. He also submitted that by squatting over the property



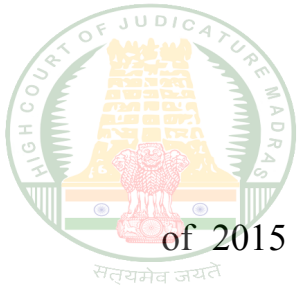
C.R.P.No.1137 of 2025

without any proof of agricultural tenancy, the petitioners are enjoying the temple property. Therefore, he seeks the dismissal of the civil revision petition. He also submitted that the arrears of rent were paid only very recently.

6. Heard the arguments advanced on both sides and perused the records.

7. The petitioners are the plaintiffs in O.S.No.360 of 2007 and the case had been posted for trial on 27.04.2015. Since the petitioners did not appear before the Court, the suit was dismissed for default. An application was filed on the same day seeking to restore the suit. However, the trial Court found that the Commissioner of HR & CE, who is a necessary party to the suit, was not impleaded and therefore, concluded that the petitioners had willfully defaulted, leading to dismissal of the application in I.A.No.415 of 2015.

8. Taking into consideration the fact that the petition for restoration was filed on the same day, this Court is of the opinion that one opportunity should have been given to the petitioners to restore the suit. Accordingly, this **Civil Revision Petition is allowed**. The impugned order dated 27.09.2016 in I.A.No.415



C.R.P.No.1137 of 2025

of 2015 in O.S.No.360 of 2007, on the file of the Principal District Munsif

WEB COURT, Tiruchengode stands set aside and the suit is restored to the file.

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

9. The parties, including the Commissioner of HR & CE, who is a necessary party, are directed to appear before the trial Court on **28.04.2025**. The respondents are permitted to raise all the objections before the trial Court. The trial Court shall fix the date for trial and ensure that the trial in O.S.No.360 of 2007 is completed within a period of four months from 02.06.2025.

02.04.2025

Index : Yes / No

Neutral Citation : Yes / No

rpl

To

1.The Principal District Munsif Court, Tiruchengode.

2.The Executive Officer

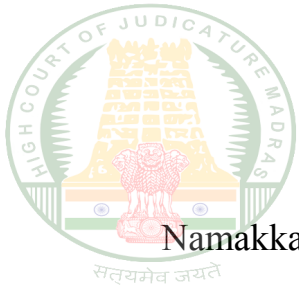
A/M Kailassanthar Temple,

Kottaimedu,

Kallangattuvalasu Post,

Komarapalayam Agraharam Village,

Tiruchengode Taluk,



Namakkal District

WEB COPY



C.R.P.No.1137 of 2025

A.D.JAGADISH CHANDIRA, J.

rpl

C.R.P.No.1137 of 2025