



C.R.P.(MD)No.918 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2025

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.918 of 2024
and C.M.P.(MD).No.5044 of 2024

S.M.Shankar ... Petitioner/2nd Respondent/3rd Respondent

Vs.

1.The Idol of Sri Jambukeswarar
Akhilandeswari Devashtanam
represented by its Executive Officer,
Thiruvanaikoil,
Trichy. ... 1st Respondent/Petitioner/Plaintiff

2.M.S.Devi ... 2nd Respondent/1st Respondent/2nd Defendant

PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the order, dated 11.03.2024, made in E.P.No.109 of 2019 in O.S.No.198 of 1995 on the file of the District Munsif Cum Judicial Magistrate, Srirangam, Trichy District.

For Petitioner : Mr.S.Vinayak

For Respondents : Mr.P.Thiyagarajan for R1



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ORDER

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This revision petition has been filed to set aside the order, dated 11.03.2024, made in E.P.No.109 of 2019 in O.S.No.198 of 1995 on the file of the District Munsif Cum Judicial Magistrate, Srirangam, Trichy District.

2.The facts in brief:

Suit in O.S.No.198 of 1995 was filed by the first respondent herein for ejectment. Suit was decreed as prayed for. Against which, appeal was preferred in A.S.No.166 of 2004, before the learned Principal District Judge, Trichy. That was also dismissed confirming the decree passed by the trial Court. To execute the same E.P.No.38 of 2005 was filed. Later, it was renumbered as E.P.No.109 of 2019 on the file of District Munsif cum Judicial Magistrate, Srirangam. After prolonged hearings, delivery was ordered. Against which, this civil revision petition is preferred.

3.Record of proceedings shows that against the above said appeal, second appeal in S.A.(MD).No.75 of 2005 is stated to be pending before this Court. A representation was made by the revision petitioner that he



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may be treated as new lessee by fixing the fair rent as on date. On that ground, the matter was ordered to be listed on 18.04.2024. At that time, it was informed by the respondent to the Court that pursuant to the Court orders, they have decided not to permit any kind of business activities within the temple premises in the shop namely the subject matter of the suit, now exists within the temple premises. So, it was submitted by the respondent that the respondent cannot be permitted to continue as a lessee in the same property.

4.On that ground the learned counsel for the revision petitioner submitted before the Court that he would find out an alternative place. On that ground the matter was adjourned. When it was listed before this Court, it was submitted by the revision petitioner that only a suggestion was made by the respondent herein to arrange alternative place for the revision petitioner. But, it was informed to the Court by the respondent that no such alternative place is available to accommodate the revision petitioner. On that ground, no other choice is available to the revision petitioner, except to vacate the same. In fact, the representation made by the revision petitioner by the letter dated 20.06.2024, came to be rejected



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on 28.06.2024. As mentioned above, no other option is available to the revision petitioner, except to surrender the possession.

5.But, an argument was advanced by the revision petitioner stating that at the time of admission in S.A.(MD).No.75 of 2005, interim stay was granted. Later, the E.P.No.38 of 2005 was transferred to the District Munsif cum Judicial Magistrate, Srirangam and renumbered as E.P.No.1 of 2019. When the stay order was in force, the Execution Court set the revision petitioner exparte on 12.10.2022 and ordered delivery. On that ground he wants the entire records be called for from the Execution Court and set aside the same.

6.But, this prayer itself is not maintainable, since it was admitted that second appeal itself was dismissed. When the second appeal was dismissed, there is no question of calling back to the stay order and contend that the order of execution itself is improper. In fact, the second appeal was dismissed so far recovery of possession is concerned. It was decided on 27.03.2023. The order copy was not produced before the Execution Court. Only on 11.03.2024, delivery was ordered. So the



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question of violating the stay order does not arise at all. It appears that the revision petitioner wants to prolong the matter by saying one or other ground.

7. Another request made by the petitioner is that the order of dismissal may not affect his right to set aside the exparte order. No purpose is going to be served even by setting aside the exparte order. But, however, it is open to the revision petitioner to work out his remedy, if so advisable in the manner known to law. It is made clear that no liberty is granted to the petitioner to file the application to set aside the exparte order by this Order. It is up to him to take further course of action.

8. In the result, this Civil Revision Petition is dismissed, confirming the impugned order passed by the Court below. No costs.

08.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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G.ILANGOVA N,J.

TM

To

- 1.The District Munsif Cum Judicial Magistrate, Srirangam, Trichy District.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.

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