



C.R.P(NPD)(MD)No.1121 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(NPD)(MD)No.1121 of 2022
and C.M.P.(MD)No.4523 of 2022

M.Muthukumar

... Petitioner

Vs

1.V.Kannan

2.The Joint Commissioner,
Arulmighu Aranganatha Swamy Temple,
Srirangam, Trichy – 6,
Trichy District.

... Respondents

(2nd respondent impleaded as per the order of
this Court dated 17.10.2024 made in C.M.P.
(MD)No.13022/2024 in C.R.P.(MD)No.1121/2022)

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., against the decree and fair order made in E.P.No.138 of 2019 in R.C.O.P.No.08 of 2016 on the file of District Munsif, Srirangam, dated 27.04.2022.

For Petitioner : Mr.R.Sundar

For Respondents : Mr.M.Saravanan for R2
No Appearance for R1



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ORDER

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This Civil Revision Petition is filed against the decree and fair order made in E.P.No.138 of 2019 in R.C.O.P.No.08 of 2016 on the file of District Munsif, Srirangam, dated 27.04.2022.

2. RCOP No.8 of 2016 was filed by the revision petitioner herein against the first respondent before the Rent Controller, Trichy, under Section 10(2)(i) and 10(2)(iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1961, for eviction. That was resisted by the first respondent by filing counter and after enquiry, the Rent Controller passed an order of eviction by order dated 27.02.2019. Against which there was no appeal or further proceedings. To execute the decree, E.P.No.138 of 2019 was filed by the revision petitioner. The respondent entered appearance and after prolonged proceedings, an order was passed by the execution Court ordering delivery by the order dated 20.12.2021, delivery was ordered to be effected on or before 24.01.2022. Later, An application under Section 47 of C.P.C., was filed. It was returned by the execution Court and re-delivery was ordered to be effected on or before 15.06.2022. Before that the matter was taken on 27.04.2022, by rejecting



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advance hearing application, the execution Court went on to observe that the property absolutely belongs to Arulmigu Sri Aranganathan Temple, Srirangam, it is the duty of the Court to protect the interest of the temple properties. The Madras High Court in a judgment rendered in W.P.No. 574 of 2015, issued several directions. As per Section 29 of the Tamilnadu Buildings (Lease and Rent Control) Act, it is not applicable to the land of the temples. So the Rent Control proceedings itself is not maintainable. Both the parties suppressed the real fact before the Court and obtained decree behind the back of the authorities. No document was produced to prove that the decree holder is the owner of the property. The revenue records produced by the Joint Registrar clearly establish the title of the idol. Since the aggrieved party is the idol, by invoking the inherent powers of the Court, it ordered delivery of vacant possession to the Joint Commissioner Arulmigu Sri Aranganathaswamy Temple, Srirangam, through the Court process. The revenue and police officials were directed to render assistance to the Court Amin to execute the order.



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3. Simultaneously, it ordered notice to the Joint Commissioner, HR& CE Department. Delivery was ordered to be effected on or before 15.06.2022. Against which this Civil Revision Petition is preferred by the decree holder.

4. Heard both sides.

5. The beneficiary of the order namely the Joint Commissioner Arulmigu Aranganathaswamy Temple, Srirangam, was brought on record as a respondent. The revision petitioner would submit that the execution Court cannot go behind the decree RCOP was filed only in respect of the superstructure. Regarding the site, he would submit that it belongs to him.

6. Per contra, the second respondent counsel would submit that the site belongs to the temple which was recognized once. Now it appears that the above said matter is pending before the Hon'ble Supreme Court and further particulars are not available in this regard.



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7. Only a simple point arises for consideration regarding the jurisdiction of the execution Court. The Execution Court went on to make observation that the site belongs to the second respondent. By suppression of the facts, the decree holder and obtained decree with a connivance of the judgment debtor, this allegation is without any evidence. The above said observation was made. If any doubt has arisen in this regard, the execution Court ought to have permitted the parties to take up the legal plea in a legal manner by impleading the second respondent herein. Without resorting to those things, it went on to make finding and observation without any evidence. Such a course adopted by the execution Court is *per se* illegal. As mentioned above Section 47 of C.P.C., application filed also came to be returned. Who filed the application and what was the ground is also not clear on record.

8. The Execution Court went on to make observation that the main petition itself is not maintainable. By making such an observation, it nullified the decree itself. Apart from that it also exceeded the



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jurisdiction by directing the Court Amin to deliver vacant possession of the site to the second respondent herein without any decree or order, as the case may be.

9. At the time of hearing, learned counsel for the second respondent has produced the Town Survey Re-settlement Register to show that the site belongs to the temple. I am not going to that aspect and it is for the execution Court to take up the matter as per the procedure and law. So I am of the considered view that it is a fittest case for remitting by setting aside the order passed by the execution Court. The Execution Court may decide the executability of the decree on its own merits, of course, in the presence of the revision petitioner, the judgment debtor and the second respondent herein. Depending upon the outcome of the enquiry, further process may be taken by the parties.

10. Accordingly, this Civil Revision Petition is allowed and the order made in E.P.No.138 of 2019 in R.C.O.P.No.08 of 2016 on the file of District Munsif, Srirangam, dated 27.04.2022, is set aside and the



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matter is remitted back to the Execution Court. Consequently,
connected miscellaneous petition is closed. No costs.

08.01.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No

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To

- 1.The District Munsif, Srirangam.
2. The Joint Commissioner, Arulmighu Aranganatha Swamy Temple,
Srirangam, Trichy – 6, Trichy District.
3. The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN, J.

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