



C.R.P(MD)No.3121 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 03.01.2025
DELIVERED ON : 23.01.2025

CORAM:

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

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S.Kannammal

... Petitioner

Vs.

- 1.Arulmigu Balasubramaniya Swami Temple &
Devasthanam Vennaimalai,
Represented by its Managing Trustee / Fit Person,
Manmangalam Taluk,
Karur District.
- 2.The Executive Officer,
Arulmigu Balasubramaniya Swami Temple Vennaimalai,
Having office at Aathur,
Karur District.
- 3.The Assistant Commissioner,
The Hindu Religious and Endowments Department,
Saminathapuram 1st Cross Street,
Karur.
- 4.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Cotton Market Complex,
Tiruppur-641 604.



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- 5.The State,
Represented by the District Collector,
Karur District.
- 6.The District Revenue Officer,
Karur District.
- 7.The Tahsildar,
Manmangalam Taluk,
Karur District.
- 8.The Settlement Tahsildar III (S.E),
Tiruchirapalli Camp,
Now represented by the Settlement Officer,
Office of the Director of Survey and Settlement,
Chepauk,
Chennai-600 005.
- 9.The Special Commissioner & Commissioner for
Land Administration,
Chepauk,
Chennai-600 005.
- 10.The Sub Registrar,
Mela Karur,
Karur District.

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the return order, dated 29.11.2024 passed by the Subordinate Court, Karur in unnumbered plaint in Filing No. OS/1525/24 (CNR No.TNKR030017352024) and to direct the learned Subordinate Court, Karur to number the plaint and take the same on file forthwith by allowing this revision petition.



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For Petitioner : Mr.Prabhu Rajadurai
for Mr.P.Samuel Gunasingh

For R-1 & R-2 : Mr.P.Athimoolapandian

For R-3 to R-10 : Mr.B.Saravanan
Additional Government Pleader

ORDER

This Civil Revision Petition is preferred against the return order, dated 29.11.2024 passed by the learned Sub Judge, Karur.

2. This Civil Revision Petition is preferred by the plaintiff. According to the plaintiff, she is the owner of the suit property in S.F.No.569 to an extent of 1 acre in Aathur Village, Manmangalam Taluk, Karur District. The petitioner has purchased the suit property by virtue of sale deed, dated 22.11.1996 from one Chinnammal, the mother of the plaintiff and from her brother, Kandasamy and became absolute owner of the same. The petitioner is in possession and enjoyment of the suit property. While so, in the year 2010, the first respondent / first defendant, trustee of the Temple filed a suit in O.S.No.62 of 2010 before the Principal District Judge, Karur for



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declaration of title and recovery of possession against several persons. The suit was dismissed for default on 05.01.2013. Later, it was restored, in which no notice was served on the plaintiff and other defendants and they were set *ex parte* and an *ex parte* decree was passed on 12.01.2015.

3. Pursuant to the *ex parte* decree, the second respondent / second defendant filed the execution petition in E.P.No.9 of 2017 and only on receipt of the notice in the execution proceedings, the petitioner came to know about the passing of *ex parte* decree against her. Hence, she filed an application to condone the delay in filing the set aside petition in I.A.No.28 of 2019 before the Principal District Court, Karur and the said application was dismissed and delivery was ordered. Some of the defendants in the suit filed civil revision petition in C.R.P(MD)No.2100 of 2023 and the same was allowed. The petitioner has not filed any affidavit to go under the shelter of the first respondent / first defendant as a tenant and hence, she was constrained to file a suit before the Sub Court, Karur for the relief of declaration and mandatory injunction. However, the Court below without numbering the plaint frequently returning the same for various reasons. Hence, she was constrained to file the above revision for setting aside the



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return order, dated 29.11.2024 and for a direction to direct the Trial Court to number the above suit.

4. On perusal of the return order, dated 20.11.2024, the Trial Court has observed that in the civil revision petition in C.R.P(MD)No.2100 of 2023, dated 18.07.2024, this Court has directed the present revision petitioner / plaintiff and other petitioners in the civil revision petition to vacate and hand over the suit property to the Temple on or before 31.12.2024. Therefore, returned the plaint stating that the suit is not maintainable.

5. The learned Counsel appearing for the revision petitioner would submit that since the revision petitioner has not filed any affidavit to go under the shelter of the first respondent / first defendant as a tenant, she was constrained to file a suit for the relief of declaration and mandatory injunction. His further submission is that the suit property was a service inam granted to Thirumalai Katti Uliyam by Chola King to ancestors of one Kuppan and one Marudan, who were at service during the time of Inam Commissioner proceedings in 1863 and it was rent free. The extent of



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S.F.No.569 was 11.61 acres at the time of settlement Thasildar proceedings.

Both varams belonged to the service providers and the Temple was not in possession at any point of time. The great grandfather of the Chinnammal one Nachiappa Gounder @ Nachi Maniykarar was paying Kandhayam to the Temple during and his family was tilling and toiling in the land and thereby, doing agricultural activities themselves. During the settlement Tahsilar III, Tiruchirapalli Camp proceedings in the year 1967, Nachaippa Gounder's grandson Karuppana Gounder son of Chinnappa Gounder deposed before the settlement Tahsildar, wherein it was recorded that the predecessor in title of the petitioner were in possession and enjoyment of the suit schedule property. It is further submitted that Karuppana Gounder was paying kist to the Government, which fulfilled the object of the beneficial enactment (i.e.,) Minor Inams Abolition and Conversion into Ryotwari Act, 1963. Karuppana Gounder being the ryot is very well entitled for Ryotwari patta under Section 9 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 since he was cultivating the same and paying Kanthayam much before 1948. Despite the grant of the patta, Karuppana Gounder and his family continued to enjoy their land as full owners thereof and later on tax receipts were issued in



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petitioner's name and petitioner's mother Chinnammal and thereafter, she made a settlement deed in favour of her husband Kulandhaisamy for an extent of 2 acres. Since Kulandhaisamy died intestate, the petitioner is entitled to 1/8 share in that property also.

6. Heard the learned Counsels on either side and perused the materials available on record.

7. It will be relevant to refer C.R.P(PD)No.3163 of 2024 to the following observation of this Court in the said case:

*"The power of the Court to reject the plaint without numbering is no longer res integra. It has been settled by the judgment of this Court in **Selvaraj Vs. Koodankulam Nuclear Power Plant India Limited - (2021) 5 MLJ 467** (By Justice N.Seshasayee). The learned Judge in the said case held that it is not the duty of the Court to enter the game of litigation between the plaintiff and the defendant. A perusal of the order, dated 08.12.2023 would clearly show that the Court has played exactly the role which the learned Judge pointed out it should not."*



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8. Hence, this Court applying the principles laid down in the judgment reported in **2021 (5) MLJ 467** by this Court, the Court concerned cannot conduct mini trials at the stage of numbering the suit. The Court at that stage is not expected to conduct roving enquiry into merits of the matter by testing correctness of plaint averments even prior to its institution.

9. In view of the above, the Trial Court is directed to number the suit. Therefore, the concerned Trial Court is directed to number the plaint and if it is found that the plaint is liable to be rejected, the same can be dealt with in accordance with law. Otherwise, the suit shall be proceeded further and the same shall be disposed in accordance with law.

10. Accordingly, this Civil Revision Petition stands disposed of. There shall be no order as to costs.

23.01.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes

BTR

Note: Registry is directed to return the original papers.

To
The Subordinate Court,
Karur.

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K.GOVINDARAJAN THILAKAVADI, J.

BTR

Order made in
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