



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2019

CORAM

**THE HON'BLE MR.JUSTICE S.S.SUNDAR**

C.R.P (NPD) (MD) No.35 of 2006

and

C.M.P. (MD) No.201 of 2006

K.Nazeem

: 3<sup>rd</sup> Party/Petitioner

.. Vs ..

1. Arul Mighu Koodal Azhagar Koil,  
through its Executive Officer,  
Madurai - 625 001.

: Petitioner/Plaintiff

2. Sulthan

: 2<sup>nd</sup> Respondent/Respondents/  
2<sup>nd</sup> Defendant

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, praying to set aside the order dated 21.11.2005 passed in E.P.No.5 of 2002 in O.S.No.693 of 1995, on the file of the Additional District Munsif, Madurai Town, by allowing this Civil Revision Petition.

For Petitioner : Mrs.P.Jessi Jeeva Priya

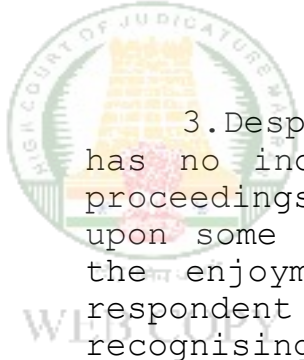
For Respondent 1 : Mr.S.Manohar

For Respondent 2 : No appearance

### ORDER

This Civil Revision Petition has been preferred by a person claiming to be a third party to the application in E.A.No.517 of 2002 in E.P.No.5 of 2002 in O.S.No.693 of 1995.

2.It is not in dispute that the suit was filed as against the tenant and the respondent temple has obtained a decree of ejectment as against the main tenant. When the execution petition was filed under Order 21, Rule 11 C.P.C. for delivery of possession, the revision petitioner claiming certain rights under the erstwhile tenant attempted to resist delivery of possession on the ground that he is in enjoyment of the property pursuant to an arrangement with the original tenant and that the temple has submitted a proposal to recognise the revision petitioner as a tenant. In a suit for ejectment against the main tenant a sub-lessee or any one claiming under him is not entitled to resist or defend eviction irrespective of the fact whether he was made as a party or not. It is a peculiar case where the revision petitioner claims right only as a sub-tenant who derives the right to be in enjoyment under the original lessee. Hence, the petitioner has no *locus standi* to resist the execution or claim any independent right as against the landlord.



3.Despite repeatedly pointing out that the tenant/petitioner has no independent right to question the decree or the eviction proceedings, the learned Counsel appearing for the petitioner relies upon some communication which according to her would indicate that the enjoyment of the revision petitioner is recognised by the respondent temple and that there was a proposal submitted for recognising him as a tenant. That will not save the petitioner to resist execution. In these circumstances, this Court find no merit in the Civil Revision Petition. The execution proceedings have been unnecessarily dragged on by the revision petitioner and there is no semblance of right based on which he could resist the execution. Hence, this Civil Revision Petition is dismissed with a cost of Rs.10,000/- (Rupees Ten Thousand only) payable to any charitable trust. It is made clear that the respondent is directed to take delivery of possession within a period of three weeks from the date of receipt of a copy of this order from the petitioner. If the petitioner is not handing over possession within three weeks, proceedings can be initiated for contempt. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS )

To

The Additional District Munsif,  
Madurai Town.

Copy to:

The section Officer,  
Accounts Section,  
Madurai Bench of Madras High Court,  
Madurai

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate ( SR-67815[F] dated 11/06/2019 )

+1 CC to Mr.S.MANOHAR, Advocate ( SR-68038[F] dated 11/06/2019 )

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10.06.2019

srm

MK (03.07.2019) 2P 5C