

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016

CORAM

THE HONOURABLE THIRU JUSTICE **M. DURAISWAMY**

C.R.P.(NPD)No.4483 of 2015
and M.P.No.1 of 2015

1. Ramaiah Pillai
2. Vaduvammal
Petitioners

...

vs

Mahalakshmi

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order passed in E.A.No.220 of 2015 in E.P.No.68 of 2013 in RCOP No.10 of 2010 dated 30.10.2105 on the file of District Munsif Court, Nagapattinam.

For petitioner : M/s S. Kingston Jerold

ORDER

Challenging the order passed in E.A.No.220 of 2015 in E.P.No.68 of 2013 in R.C.O.P No.10 of 2010, on the file of Rent

Controller/District Munsif Court, Nagapattinam, the tenants have filed the above Civil Revision Petition.

2. Pursuant to the order of eviction, passed by the Rent Controller in R.C.O.P No.10 of 2010, the respondent/landlord filed an Execution Petition in E.P.No.68 of 2013. Subsequently, in the year 2015, the revision petitioners/tenants filed a suit in O.S.No.57 of 2015 on the file of Sub Court, Nagapattinam for declaration to declare the Sale Deed dated 11.04.2003 as null and void and for permanent injunction to restrain all further proceedings on the basis of the judgment and decree in RCOP No.10 of 2010.

3. Admittedly, the trial Court has not granted any interim order in the suit in O.S.No.57 of 2015. When the suit itself has been filed by the tenants for declaration and permanent injunction in the year 2015, i.e., two years after filing of the Execution Petition, they have filed the present application under Order 21 Rule 26 of Civil Procedure Code to stay execution till the disposal of the suit in O.S.No.57 of 2015.

4. When the order of eviction, passed in RCOP No.10 of 2010 has become final, the respondent/landlord is entitled to file an Execution Petition. Therefore, mere filing of the suit by the tenants will not give any cause of action to stay the execution petition till the disposal of the suit, filed by them. The Executing Court, taking into consideration of all these aspects , rightly dismissed the petition. I do not find any error or irregularity in the order passed by the Executing Court, The Civil Revision Petition is devoid of merits and the same is dismissed. No costs. Consequently, connected MP is closed.

25-10-2016

sr
Index:no
website:yes
To

The District Munsif Court, Nagapattinam.

M. DURAISWAMY,J.,

sr

CRP(NPD)No.4483 of 2015

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