

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD).No.1338 of 2016
and C.M.P.No.7509 of 2016

1.Kathija Bee @ Fathima Josphine

2.Maria

3.A.Amalraj

... Petitioners

Vs.

Subburaj

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 12.02.2016 made in E.A.No.1 of 2016 in E.P.No.376 of 2015 in R.C.O.P.No.2077 of 2009 on the file of XVI Small Causes Court (Rent Controller), Chennai.

For Petitioner : Mr.M.Guruprasad

ORDER

Challenging the fair and final order passed in E.A.No.1 of 2016 in E.P.No.376 of 2015 in R.C.O.P.No.2077 of 2009 on the file of XVI Judge, Court of Small Causes, Chennai, the Judgment Debtors have filed the above Civil Revision Petition.

2.The revision petitioners filed R.C.O.P.No.2077 of 2009 for eviction on the ground of demolition and reconstruction. The Rent Controller ordered eviction. Against the order of eviction, the respondent/tenant preferred an appeal in R.C.A.No.738 of 2011 on the file of the Rent Control Appellate Authority, VIII Judge, Court of Small Causes, Chennai. During the pendency of the Rent Control Appeal, the parties settled the dispute amongst themselves and entered into a compromise.

3.According to the learned counsel on either side, the respondent/tenant agreed to handover vacant possession to the petitioners and the petitioners agreed to let out the premises after demolishing and reconstructing the building with certain conditions. Since the petitioners failed to give possession of the property after reconstruction, the respondent/tenant filed Execution Petition in E.P.No.376 of 2015. In the said Execution Petition, the petitioners took out an application in E.A.No.1 of 2016 to issue subpoena to the Sub Registrar, Konnur at Villivakkam to produce the records relating to the Settlement Deed dated 30.09.2009. According to the petitioners, the original document was mortgaged with a Banker and therefore, they were not in a position to produce the same before the Execution Court. The application filed by the revision petitioners were opposed by the respondent/tenant. The Execution Court,

taking into consideration the case of both parties, dismissed the application finding that the petitioners have not given sufficient explanation with regard to the non-availability of the document. Challenging this order, the Judgment Debtors/landlords have filed the above Civil Revision Petition.

4. When the matter is taken up for hearing, the learned counsel appearing for the revision petitioners submitted that the revision petitioners have obtained certified copy of the Settlement Deed from the Sub Registrar's Office and that they may be permitted to mark the said certified copy before the Execution Court.

5. The learned counsel appearing for the respondent submitted that the respondent has no objection for marking the certified copy of the Settlement Deed dated 30.09.2009 before the Execution Court.

6. In view of the submissions made by the learned counsel on either side, the petitioners are permitted to produce and mark the certified copy of the Settlement Deed dated 30.09.2009 before the Execution Court. In view of the submissions made, the application in E.A.No.1 of 2016 has become unnecessary.

7. With these observations, the Civil Revision Petition is disposed of.

No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
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02.06.2016

To

The XVI Small Causes Court
(Rent Controller),
Chennai.

M.DURAIWAMY,J.
va

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