

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD).No.1747 of 2016
and C.M.P.No.9276 of 2016

Jambuveni

... Petitioner

Vs.

1.Leelavathy

2.Balaguru

3.Pattamma

4.Arumugam

5.Gandhima

6.Mahalingam

... Respondents

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the decreetal order and fair order dated 22.04.2015 passed in E.A.No.5 of 2016 in E.A.No.150 of 2014 in M.P.No.284 of 2004 in E.P.No.107 of 2004 in Ejt.Suit No.32 of 1986 on the file of the Registrar, Court of Small Causes, Madras/Executing Court.

For Petitioner : Mr.A.A.Lawrence

ORDER

Again abuse of process of law has been exhibited by the revision

petitioner by filing another Civil Revision Petition challenging the order passed in E.A.No.5 of 2016 in E.A.No.150 of 2014 in M.P.No.284 of 2004 in E.P.No.107 of 2004 in Ejt.Suit No.32 of 1986 on the file of the Registrar, Court of Small Causes, Chennai.

2.Pursuant to the decree passed in the Ejectment Suit in Ejt.Suit No.32 of 1986 dated 22.09.2003, the 1st respondent/Decree Holder filed an Execution Petition in E.P.No.107 of 2004. Challenging the decree passed in the Ejectment Suit, the petitioner filed Ejectment Appeal with a petition to condone the delay and on 06.08.2004, the said petition was dismissed by the Court of Small Causes, Chennai and consequently, the Ejectment Appeal was also dismissed. Challenging the said order, the petitioner preferred a Civil Revision Petition before this Court in C.R.P.No.2127 of 2004 and this Court dismissed the Civil Revision Petition on 23.02.2012 holding that the Ejectment Appeal is not maintainable.

3.Thereafter, the petitioner filed a Civil Revision Petition in C.R.P.(NPD).No.1961 of 2012 with a delay of 3010 days and the delay was condoned by this Court and by order dated 10.12.2013, the Civil Revision Petition was dismissed on merits. Against the said order, the petitioner preferred a Special Leave Petition before the Hon'ble Supreme Court of

India in S.L.P.No.20156 of 2014, which was also dismissed by the Apex Court. By order dated 08.08.2014, the Hon'ble Supreme Court dismissed the Special Leave Petition observing as follows:

"We find no merits in the special leave petition. The special leave petition is dismissed on merits."

The petitioner also filed a petition in M.P.No.284 of 2004 under Section 47 of the Civil Procedure Code, which is still pending. In the said application, the revision petitioner filed applications in E.A.Nos.156 & 157 of 2014 to direct the 1st respondent/Decree Holder to produce the original patta with Ex.P23 obtained from the 7th respondent viz., The Tahsildar, Mylapore Triplicane Taluk, Chennai and the original sketch plan in Ex.P24 before the Execution Court for the purpose of comparison with the photostat copies of the documents marked in Exs.P23 & P24. E.A.No.157 of 2014 was filed by the revision petitioner to issue subpoena to the 7th respondent viz., The Tahsildar, Mylapore Triplicane Taluk, Chennai to produce the revenue records relating to the issuance of patta dated 16.07.1991 in favour of the 1st respondent/Decree Holder in respect of the suit property and to tender evidence in respect of the same. The Execution Court dismissed both the applications. Aggrieved over the same, the revision petitioner filed Civil Revision Petitions in C.R.P.(NPD).Nos.2869 & 2870 of 2015 and this Court,

by order dated 05.01.2016, dismissed both the Civil Revision Petitions and observed as follows:

"20.As already stated, the suit was filed in the year 1986. The decree was obtained by the 1st respondent-plaintiff on 22.09.2003. Pursuant to the decree, the Execution Petition was filed in the year 2004. The revision petitioner filed a petition under section 47 of CPC in M.P.No.284 of 2004 in the year 2004. Even after a lapse of nearly 30 years, in spite of the judgment and decree passed in the Ejectment Suit which was confirmed by the Hon'ble Apex Court, the proceedings has not reached the finality till today. The applications filed by the petitioner is clear abuse of process of law and the petitioner is challenging the orders of the Hon'ble Supreme Court and this Court.

21.Taking into consideration all these aspects, the Registrar, Court of Small CAuses, Chennai has rightly dismissed the applications. Since the petitioner had deliberately filed the applications to drag on the matter, I am of the view that the 1st respondent-decree holder should be compensated with costs.

22.In these circumstances, I do not find any error or irregularity in the orders passed by the Execution Petition. The Civil Revision Petitions are dismissed with cost of Rs.25,000/- (Rupees twenty five thousand only). The petitioner shall pay the said sum of Rs.25,000/- to the 1st respondent- decree holder, within a period of two weeks from the date of receipt of a copy of this order. The Registrar,

Court of Small Causes, Chennai, is directed to dispose of the petition in M.P.No.284 of 2004 in E.P.No.107 of 2004 in Ejectment Suit 32 of 1986, within a period of four weeks from the date of receipt of a copy of this order. The Registrar, Court of Small Causes, Chennai is also directed to dispose of the Execution Petition, within a period of two weeks thereafter. The Registrar, Court of Small Causes, Chennai is directed to report the disposal of the Miscellaneous Petition in M.P.No.284 of 2004 and the Execution Petition in E.P.No.107 of 2004 within the stipulated time to the Registry of this Court. Consequently, connected miscellaneous petition is closed."

4.While disposing of the earlier Civil Revision Petitions, this Court held that the applications filed by the petitioner is clear abuse of process of law and the petitioner is challenging the orders of Hon'ble Supreme Court and this Court in the Civil Revision Petitions. Though the suit was filed in the year 1986 and the decree was obtained by the 1st respondent-plaintiff on 22.09.2003, even after a lapse of 30 years, the proceedings has not reached finality till today. Further, it was observed by this Court that the petitioner had deliberately filed the applications to drag on the matter and this Court dismissed both the Civil Revision Petitions with costs of Rs.25,000/- to be paid within a period of two weeks from the date of receipt of the copy of the order.

5.The learned counsel appearing for the petitioner submitted that so far the petitioner has not paid the costs as directed by this Court on 05.01.2016. Further, this Court directed the Registrar, Court of Small Causes, Chennai to dispose of the Section 47 application in M.P.No.284 of 2004 within a period of four weeks from the date of receipt of a copy of the order.

6.According to the learned counsel for the petitioner, the Section 47 application is also still pending inspite of the orders of this Court on 05.01.2016. As against the orders passed in the Civil Revision Petitions dated 05.01.2016, the revision petitioner filed Special Leave Petitions before the Apex Court in Special Leave Petitions (Civil) Nos.5406 - 5407 of 2016 and the Hon'ble Supreme Court, by its order dated 29.02.2016, dismissed the Special Leave Petitions. Subsequently, the petitioner prosecuted an application in E.A.No.5 of 2016 filed in E.A.No.150 of 2014 in M.P.No.284 of 2004 in E.P.No.107 of 2004 to direct the Decree Holder-plaintiff to file a sketch with dimensions showing the property purchased by her measuring 1737 sq.ft. Ex.P1 Sale Deed and also to mark the same sketch with regard to the area measuring 742 sq.ft. of the property. The

application filed by the petitioner was contested by the 1st respondent-plaintiff and the Executing Court, by its order dated 22.04.2016, dismissed the application finding that the issue involved in the present application was already decided by this Court in C.R.P.(NPD).Nos.2869 & 2870 of 2015, which was also confirmed by the Hon'ble Supreme Court of India in S.L.P.(Civil) Nos.5406 & 5407 of 2016 by its order dated 29.02.2016.

7.On a reading of the prayer sought for in E.A.No.5 of 2016 and E.A.No.156 of 2014, it could be seen that both the prayers are almost one and the same, except for the production of the patta marked as Ex.P24. The issue now raised in the present application was elaborately considered by this Court in the earlier Civil Revision Petitions in C.R.P.(NPD).Nos.2869 & 2870 of 2015.

8.Though the Executing Court was directed to dispose of the Section 47 application within a period of four weeks, till today, the said order has not been complied with. The revision petitioner also has not complied with the directions given to her to pay a sum of Rs.25,000/- to the 1st respondent/Decree Holder as costs within a period of two weeks. Even without complying with the directions given by this Court, the revision petitioner has again approached this Court challenging the order passed in

E.A.No.5 of 2016. The conduct of the revision petitioner would clearly establish that she is bent upon preventing the 1st respondent/Decree Holder from executing the decree granted in the Ejectment Suit in Ejec.Suit No.32 of 1986 dated 22.09.2003. The revision petitioner has successfully dragged on the matter for over a period of 30 years and inspite of the directions given by this Court on 05.01.2016, the matter has been dragged on for another six months.

9.In these circumstances, I do not find any error or irregularity in the order passed by the Registrar, Court of Small Causes, Chennai. I am of the considered view that the filing of the application in E.A.No.5 of 2016 is again a clear abuse of process of law and the same has been deliberately filed by the revision petitioner to drag on the matter. I am of the view that the 1st respondent/Decree Holder should be compensated with costs.

10.Accordingly, the Civil Revision is dismissed with cost of Rs.25,000/- (Rupees twenty five thousand only). The petitioner shall pay the said amount of Rs.25,000/- to the 1st respondent/Decree Holder within a period of two weeks from the date of receipt of a copy of this order. The Registrar, Court of Small Causes, Chennai is again directed to dispose of M.P.No.284 of 2004 in E.P.No.107 of 2004 in Ejec.Suit 32 of 1986 within a

period of three weeks from the date of receipt of a copy of this order. The Registrar, Court of Small Causes, Chennai is also directed to dispose of the Execution Petition in E.P.No.107 of 2004 within a period of two weeks thereafter. The Registrar, Court of Small Causes, Chennai is directed to report the disposal of the Miscellaneous Petition in M.P.No.284 of 2004 and the Execution Petition in E.P.No.107 of 2004 to the Registry of this Court. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
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17.06.2016

Note: (i) The Registry is directed to communicate the order passed in this petition to the Registrar, Court of Small Causes, Chennai on or before 22.06.2016.

(ii) Issue order copy on 20.06.2016.

To

The Registrar,
Court of Small Causes,
Chennai.

M.DURAIWAMY,J.
va

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