

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2016

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THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD).No.3299 of 2016
and C.M.P.No.16823 of 2016

Vasanthi

... Petitioner

Vs.

1.Somasundaram

2.Ravichandran

... Respondents

rep by Power Agent Somasundaram - 1st respondent herein

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed in E.A.No.168 of 2016 in E.A.No.141 of 2016 in E.P.No.183 of 2014 in R.C.O.P.No.19 of 2012 on the file of the Additional District Munsif, Mayiladuthurai dated 24.08.2016.

For Petitioner : Mr.K.M.Subramaniam

For Respondents : Mr.A.Muthukumar

ORDER

Challenging the order passed in E.A.No.168 of 2016 in E.A.No.141 of 2016 in E.P.No.183 of 2014 in R.C.O.P.No.19 of 2012 on the file of the Additional District Munsif Court, Mayiladuthurai, the tenant has filed the above Civil Revision Petition.

2.Pursuant to the order of eviction passed in R.C.O.P.No.19 of 2012,

the respondents/landlords filed Execution Petition in E.P.No.183 of 2014. In the said Execution Petition, the tenant also filed an application in E.A.No.141 of 2016 under Section 47 of the Civil Procedure Code. Subsequently, the tenant also filed another application in E.A.No.168 of 2016 seeking for appointment of Advocate Commissioner to demarcate the property and to note down the physical features and the nature of construction of Door No.16/19. The respondents/landlords filed Rent Control Original Petition mentioning a specific Door Number (i.e.) 16/19 and also T.S.No.1020 in Ward No.4, Block No.22 measuring an extent of 5565 sq.ft. together with the old tiled house. Eviction was also ordered in respect of Door No.16/19. Pursuant to the order of eviction, the Execution Petition has been filed by the respondents mentioning the very same Schedule of property.

3. When the petition itself is clear about the identity of the property, I do not find any reason for appointing an Advocate Commissioner to demarcate and note down the physical features. When the Rent Control Original Petition was filed for eviction on the ground of wilful default and demolition and re-construction, absolutely there is no necessity seeking for appointment of Advocate Commissioner in the execution proceedings.

4.It is also brought to the notice of this Court that as against the order of eviction passed by the Rent Controller, the tenant preferred an appeal and the appeal was also dismissed by the Rent Control Appellate Authority, as against which the tenant preferred a Civil Revision Petition before this Court and this Court also dismissed the Civil Revision Petition. Further, it was submitted that as against the order passed in the Civil Revision Petition, the tenant preferred an appeal before the Hon'ble Supreme Court of India and the Apex Court also confirmed the order passed by this Court.

5.After losing before all the Appellate Forums, now the tenant has come forward to file an application seeking for appointment of Advocate Commissioner in the Execution Petition. The Executing Court, taking into consideration all these aspects, rightly dismissed the petition.

6.In these circumstances, 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 liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed.

7.Since the proceedings are pending for a long time, I direct the Additional District Munsif, Mayiladuthurai to dispose of the Execution Petition in E.P.No.183 of 2014 within a period of three months from the date of receipt of a copy of this order, after disposing of all the pending applications. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
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02.11.2016

To

The Additional District Munsif,
Mayiladuthurai

M.DURAIWAMY,J.
va

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