

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.12.2016

CORAM

THE HON'BLE MR. JUSTICE T.MATHIVANAN

C.R.P(NPD) No.3718 of 2012

Mrs.Santia Fernando

... Petitioner

Vs.

M/s.Manba-UI-Ula Society
(Wakf-E-Khadar Basha)
Rep. By its G.P.A.Mr.A.K.M.Junaid
S/o.Ahamed Saleh
Door No.72, Angappa Naicken Street
Chennai – 600 001

... Respondent

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the judgment and decree dated 08.08.2012 and made in Ejectment Suit No.4 of 2011 on the file of the Small Causes Court IV, Chennai.

For Petitioners : Mr.V.Bhiman

For Respondent : Mr.N.Sivaprakash

ORDER

The judgment and decree dated 08.08.2012 are under challenge in this revision. The revision petitioner herein is the defendant in Ejectment Suit No.4 of 2011 on the file of IV Small Causes Court, Chennai, whereas the respondent is the plaintiff.

2. As it is revealed from the records, the respondent had filed an

ejectment suit on the file of the IV Court of Small Causes as against the petitioner and thereby sought the relief of judgment and decree against the revision petitioner for her ejectment from the suit property and to handover possession to the respondent /plaintiff and also to pay damages at the rate of Rs.2500/- per mensem from the date of plaint till the date of handing over of possession.

3. This suit was contested by the revision petitioner by filing written statement. However, based on the evidences both oral and documentary, the learned trial Judge had proceeded to decree the suit as prayed for, directing the revision petitioner to vacate and deliver vacant possession of the suit property bearing Door No.157, Old No.61, K.R.Koil Street, West Mambalam, Chennai-600 033, within two months from the date of judgment and decree. Having been aggrieved by the judgment and decree of the trial Court dated 08.08.2012, present revision is filed by the judgment debtor / defendant.

4. When the matter came up for hearing before this Court, the learned counsel appearing for the respondent Mr.N.Sivaprakash has drawn the attention of this Court to Ground No.3 of the memorandum of revision wherein the revision petitioner/judgment debtor has stated that she has been living in the suit premises with her daughter and grandchildren and since she is a woman and not having enough source to acquire her own

residence in the near future, she has requested two years time to vacate the premises.

5. When the ground No.3 was indicated to Mr.V.Bhiman, learned counsel for the petitioner, he has fairly admitted that some reasonable time might be given to the revision petitioner to vacate and handing over the vacant possession. In this connection, an affidavit has also been filed on behalf of the revision petitioner wherein the revision petitioner/judgment debtor has stated that she is 72 years old widow living along with her daughter and grandchild and therefore she is not having alternate arrangement to reside. She has also stated that she has been suffering with paralysis attack from the year 2008 and till date and she has also been bed ridden and is not able to move. Therefore, she has requested the Court to grant one year time to vacate the premises.

6. But, this has not been accepted by the learned counsel for the respondent saying that the respondent, being the plaintiff, had taken strenuous effort to get the decree as well as to eject the revision petitioner from the suit premises. He has also submitted that even as per Ground No.3 of the memorandum of revision, the petitioner had requested time for two years. That revision seems to have been filed in the year 2012. In this connection, he has maintained that four years have passed from the date of filing of the revision and still, the petitioner had sought time for one year for

the eviction and handing over of the suit premises, for which he is not agreeable. Apart from this the learned counsel has also filed a memorandum of calculation wherein it is stated that from 01.02.2009 to 01.12.2016 i.e., for 95 months at the rate of Rs.2500/, the revision petitioner has to pay a sum of Rs.2,37,500/- towards the arrears of rent. Therefore, he has urged this Court to prescribe a time limit for the deposit of the above said amount.

7. This Court has struck a balance between the submissions made by the learned counsel for the revision petitioner and the learned counsel for the respondent and having regard to the related facts and circumstances, this Court finds that two months time may be given to the revision petitioner to vacate and handing over the vacant possession of the suit premises. Further, the petitioner shall also be directed to deposit Rs.2,37,500/- within a period of two months from the date of receipt of a copy of this order.

8. In this connection, Mr.N.Sivaprakash, the learned counsel for the respondent has submitted that the revision petitioner might be directed to pay 50% of the arrears of rent directly to the landlord within a period of one month from the date of receipt of a copy of this order and the remaining amount shall be directed to be paid at the time of handing over possession.

Keeping in view of the above fact, the judgment and decree dated 08.08.2012 and made in the Ejectment Suit No.4 of 2011 are confirmed.

The revision petitioner, being the judgment debtor, is directed to vacate and hand over the vacant possession of suit premises to the decree holder within a period of two months from the date of receipt of a copy of this order. To show her bonafide, the petitioner shall pay 50% of the arrears of rent as calculated above directly to the decree holder within a period of one month from the date of receipt of a copy of this order and the remaining amount and the subsequent monthly rents shall have to be paid at the time of handing over possession. No costs.

09.12.2016

Index: yes/no
Internet: yes
gpa

To

IV Judge
Small Causes Court
Chennai

T.MATHIVANAN.J.,

gpa

C.R.P(NPD) No.3718 of 2012

09.12.2016

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