



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.02.2016

CORAM:

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THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP (MD).No.147 of 2016 and CMP(MD).No.686 of 2016

Muruganantham : Revision Petitioner

Vs.

Rajavel : Respondent

Prayer: The Civil Revision Petition is filed under Section 115 of the Civil Procedure Code against the fair and decreetal order dated 4.1.2016 passed in E.P.No.13 of 2015 in RCOP.No.24 of 1995 on the file of the Principal District Munsif Cum Judicial Magistrate Court, Lalgudy.

For Petitioner : Mr. K.S. Sankar Murali

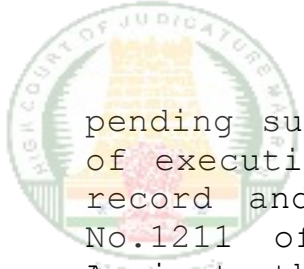
For Respondents : Mr. P. Ganapathi Subramanian

ORDER

The Civil Revision Petition is filed against the fair and decreetal order, passed in E.P.No.13 of 2015 in RCOP.No.24 of 1995, on the file of Principal District Munsif Cum Judicial Magistrate Court, Lalgudy.

2. The revision petitioner is the tenant. One Ragavan, as owner of the property filed RCOP.No.24 of 1995 for eviction of the petitioner. The said petition was ordered. After ordering eviction, the respondent purchased the property. As per the order of this Court dated 26.11.2014, passed in M.P.No.1 of 2014 in CRP.(MD).No.1211 of 2008, the respondent was impleaded as second petitioner. The respondent filed E.P.No.13 of 2015 for eviction of the petitioner, as per order dated 27.11.1997. On 11.03.2015, this Court directed the petitioner to vacate the petition premises within three months.

3. The petitioner filed counter affidavit and stated that he is in possession of the petition premises as agreement holder. He has filed a suit in O.S.No.42 of 2012 for specific performance of agreement of sale and the same has been transferred to Sub Court, Trichy and re-numbered as O.S.No.360 of 2012. Therefore,



pending suit the respondent is not entitled to execute the order of execution. The learned Judge considered all the materials on record and order of this Court dated 11.03.2015 in CRP(MD). No.1211 of 2008, by order dated 04.01.2016 ordered eviction. Against the said order the petitioner has come out with the present petition.

4. The learned counsel for the petitioner submitted that the learned Judge failed to see that the respondent purchased the property after order of eviction. In the sale deed it has not been mentioned that the decree has been assigned in favour of the respondent. Further, the tenancy was not attorned in favour of the respondent. The petitioner entered into an agreement of sale with the landlord on 10.11.2015 and he is in possession of property as an agreement holder and not as a tenant. He filed O.S.No.360 of 2012 for specific performance of agreement sale. The learned Judge failed to consider all these aspects and prayed for allowing the Civil Revision Petition.

5. The learned counsel for the caveator submitted that there is no injunction restraining the respondent from executing the decree. This Court by order dated 11.03.2015 in CRP(MD). No.1211 of 2008 directed the petitioner to vacate and hand over the possession within three months from the date of receipt of that order. Therefore, the learned Judge has rightly allowed the Execution Petition ordering eviction of the petitioner.

6. I have heard the learned counsels appearing on either side and perused the materials on record.

7. From the materials available on record it is seen that order of eviction was passed on 27.11.1997 subsequently, the respondent purchased the property. As per the order of this court, the respondent was impleaded as second petitioner, as per order dated 26.11.2014 in M.P.No.1 of 2014 in CRP.No.1211 of 2008 and subsequently, by order dated 11.03.2015 this Court confirmed the order of eviction and directed the petitioner to vacate and hand over the possession, within three months from the date of receipt of a copy of that order. There is no order restraining the respondent from executing the order of eviction. The order of this court dated 11.03.2015 directing the petitioner to vacate and hand over the possession has become final.

8. In such circumstances, the learned Judge considered all the materials on record in proper perspective and has given valid and cogent reasons for dismissing the Execution Petition. Further the learned Judge has exercised his power conferred on him in proper perspective and there is no irregularity or illegality in the order of this Court.



9. In the result, the Civil revision petition is dismissed confirming the impugned order passed in E.P.No.13 of 2015 in RCOP.No.24 of 1995 on the file of Principal District Munsif Cum Judicial Magistrate Court, Lalgudy. No costs. Consequently, connected Miscellaneous Petition is closed.

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Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

trp

To
The Principal District Munsif
Cum Judicial Magistrate Court, Lalgudy.

+1CC to Mr.K.S.Shankarmurali Advocate Sr.No.11871
+1CC to Mr.P.Ganapathi Subramanian Advocate Sr.No.17429

GJM/SK/SKN/23.3.16-3p-4C

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