



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

C.R.P. (NPD) (MD) No. 983 of 2016

and

C.M.P (MD) No. 4880 of 2016

Muruganandam

..Petitioner/Petitioner/
Judgment debtor/Respondent Tenant

-vs-

Rajavel

.. Respondent/Respondent/Decree
Holder/Petitioner Landlord

PRAYER: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, to set aside the fair and decretal order dated 01.04.2016 in E.A.Sr.No.85 in E.P.No.13 of 2015 in RCOP No.24 of 1995 on the file of the learned Principal District Munsif-cum-Judicial Magistrate, Lalgudi.

For Petitioner

: Mr.K.Prabakar

For Respondent

: Mr.P.Ganapathy Subramanian

ORDER

This revision arises out of the order passed by the Principal District Munsif-cum-Judicial Magistrate, Lalgudi in E.A.Sr.No.85 in E.P.No.13 of 2015 in RCOP No.24 of 1995 dated 01.04.2016.

2. The petitioner is the tenant. The respondent/landlord filed RCOP No.24 of 1995 against the petitioner seeking eviction on the ground of own use and occupation. After contest, an eviction order was passed on 27.11.1997. The said order was confirmed by the Rent Control Appellate Authority (Principal Subordinate Judge), Trichy, by his order dated 03.09.2007 made in R.C.A.No.25 of 1998 and also by this Court in C.R.P(NPD) (MD) Nos.1211 and 1212 of 2008 on 11.03.2015.

3. Based on the decree, the respondent/landlord filed E.P.No.13 of 2015 seeking delivery of possession of the petition property. The petitioner resisted the application contending that after initiating eviction proceedings, in a family partition, the petition property was allotted to one Purusothaman, who is the brother of the respondent. Subsequently, the petitioner entered into a sale agreement on 10.11.2011 and therefore, the character of the petitioner is changed and the execution petition is not maintainable. Despite objection, the Executing Court ordered delivery of possession. The petitioner unsuccessfully challenged the order of delivery in C.R.P (NPD) (MD) No.147 of 2016.



4. Raising the same grounds, the petitioner filed an application in the execution proceeding under Section 47 of C.P.C. The Executing Court dismissed the petition as not maintainable, in view of the order passed in C.R.P(NPD)(MD)Nos.1211 of 2008 and C.R.P(MD)No.147 of 2016. Challenging the same, this revision has been preferred.

5. Heard Mr.K.Prabakar, learned counsel appearing for the petitioner and Mr.P.Ganapathy Subramaniam, learned counsel appearing for the respondent.

6. It is not in dispute that the petitioner is a tenant under the respondent and equally it is also not disputed that the order of eviction was confirmed by this Court in C.R.P(MD)Nos.1211 and 1212 of 2008 and it has reached finality. The petitioner resisted the execution petition on the same grounds, which were rejected by this Court in C.R.P(MD)No.147 of 2016.

7. In view of the above facts, I do not find any illegality or irregularity in the order impugned in this revision.

8. In the result, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(T & P)

/True Copy/

Sub Assistant Registrar

To
The Principal District Munsif
-cum-Judicial Magistrate, Lalgudi.

+1cc to Mr.P.Ganapathi Subramanian, Advocate Sr.No.27754
skn
AA/SK-SKN/23.06.2016/2p-3c

C.R.P. (NPD) (MD) No.983 of 2016
02.06.2016