

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2017

CORAM :

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

C.R.P. (NPD) No. 1348 of 2017

and

C.M.P No. 6257 of 2017

1. Rajesh Singh
2. N. Krishnamurthy
3. T. Mohan

... Petitioners

VS.

1. Sri Kakkumani Audikesavalu
Chetty's Charities rep. by its
President and Trustees
2. M. Bashyakarlu
V. Anandakrishnan Chetty (deceased)
3. C. Sundarsana Srinivasan
4. P. Niranjana
5. V. V. Rahunath
6. V.S. Balaji
7. Prakash
8. Swaroop

...Respondents

Civil Revision Petition filed under Article 226 of the Constitution of India, to set aside the fair and decreetal order made in C.M.P No.253 of 2017 in C.M.A No.23 of 2017 dated 24.03.2017 on the file of VII Additional City Civil Court, Chennai and allow this CRP and pass further orders.

For Petitioners : Mr.P.R. Shankar

For Respondents : Mr.P.K. Sivasubramanian
for R1. R3, R6 & R8

ORDER

This Civil Revision Petition arises against the Judgment and decree made in C.M.P No.253 of 2017 in C.M.A No.23 of 2017 dated 24.03.2017 on the file of VII Additional City Civil Court, Chennai and allow this Civil Revision petition.

2. Learned counsel for the petitioners would submit that the petitioners are tenants in the respondents' premises and have been paying the rent to one Shaik Ismail, who has sublet the premises to them. The respondents filed a suit in O.S. No. 405 of 2004 for eviction against the said Shaik Ismail and obtained decree in their favour. The appeal filed

against the said order was dismissed on 03.11.2011. The petitioners have also filed a suit in O.S. No. 3715 of 2009 and obtained injunction against the decree holder and the said Shaik Ismail, not to evict them otherwise, by due process of law. Therefore the respondents filed E.P. No. 2351 of 2008 for eviction of the petitioners and are attempting to execute the delivery warrant. Against the same, the petitioners filed C.M.P No. 253 of 2017 before the VII Additional City Civil Court, Chennai, seeking to stay further proceedings of the respondents, but the same was dismissed. Aggrieved by the same, this revision petition has been filed by the petitioners.

3. Today when the matter came up for hearing, petitioners 2 & 3, filed an Undertaking Affidavit dated 12.04.2017, individually. In paragraph 2 of the affidavit, it is stated that the petitioners are willing to vacate the subject property and hand over the premises, on 30.09.2017 and till then, they may be provided with electricity, water, toilet facilities and other amenities.

4. Mr. V. Pandurangam, the Secretary to the respondent Society have also filed an affidavit dated 13.04.2017 stating that the 1st petitioner

has removed all his materials and the vacant portion has been handed over by the Bailiff. It is further stated that the respondents have no objection in permitting the petitioners 2 & 3 to continue till 30.09.2017 but except electricity there are no other amenities by way of water and toilet facilities are available and the same cannot be provided.

5. Recording the undertaking affidavits filed by the petitioners 2 & 3 and the respondent Society, this Court direct the petitioners to vacate the premises before 30.09.2017 and till then the petitioners should pay the monthly rent to the respondents, on or before 5th day of every succeeding month.

6. The Undertaking Affidavits dated 12.04.2017 filed by the petitioners and of the respondent Society dated 13.04.2017 shall form part of the records. The respondents are also directed to provide the existing basic amenities, to the petitioners till 30.09.2017. In case of any default of the aforesaid clause, it is open to the respondents to proceed against the petitioners, in accordance with law.

7. This Civil Revision Petition is disposed, on the above terms.

Consequently, the Connected Miscellaneous Petition is closed. No order as to costs.

17.04.2017

Index : yes / no

Speaking Order/ Non speaking order

avr

To

1. The VII Additional City Court , Chennai.

D.KRISHNAKUMAR, J.

avr

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