

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2017

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(NPD) NO.2801 OF 2017
AND CMP NO.13270 OF 2017

Sahabudeen ... Petitioner

Vs.

Kunchithabatham ... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the order dated 17.06.2017 passed in Unnumbered E.A.No. / 2017 in E.P.No.9/2016 in R.C.O.P.No.6 of 2010 on the file of Rent Control Court, District Munsif Cum Judicial Magistrate, Nannilam.

For Petitioner : Mr.M.Thamizhavel

सत्यमेव जयते
ORDER

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This Civil Revision Petition is directed against the order dated 17.06.2017 passed in Unnumbered E.A.No. / 2017 in E.P.No.9/2016 in R.C.O.P.No.6 of 2010 by the Rent Control Court, District Munsif Cum Judicial Magistrate, Nannilam.

2. The petitioner is the tenant. The respondent / landlord has filed an eviction petition on the grounds of willful default and owner's occupation. The Rent Controller as well as the Rent Control Appellate Authority have ordered eviction on both the grounds. On revision before this Court, eviction was confirmed on the grounds of owner's occupation and reversed on the grounds of willful default. The respondent / landlord has filed an execution petition in E.P.No.5 of 2012 and the same has been prolonged for the past five years. The petitioner / tenant has filed a petition under Section 47 questioning the validity of the decree. The Execution Court has dismissed the same, even at the stage of numbering itself. Aggrieved over the same, the petitioner is before this Court.

3. It is well settled principle that the Execution Court cannot go behind the decree and decide on the validity of the decree has already been confirmed by the High Court.

4. After some arguments, learned counsel for the petitioner would submit that time may be granted for vacating and handing over possession to the decree holder. He also filed a memo of undertaking to that effect.

5. Considering the same, this Court grants two months time from the date of receipt of a copy of this order, for handing over possession of the petition premises, to the decree holder / landlord.

6. With these observations, the Civil Revision Petition is disposed of. No costs. Consequently, connected civil miscellaneous petition is closed.

09.08.2017

Index : Yes/No

Internet : Yes/No

TK

To

The Rent Control Court
District Munsif Cum Judicial Magistrate
Nannilam.

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M.GOVINDARAJ, J.

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