

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.(NPD). No.3330 of 2014

D.Balan

..Petitioner

Vs.

1. B.F.Leelabai

2. M.Ashokchand

3. M.Dharmchand

4. M.Jaichand

5. M.Vijaychand

6. Pushpalatha

7. Muthukrishnan

8. Hari

9. Kasthuri Raj

10. Padmanabhan @ Raja

11. Saroja

12. Vijaya

13. Ambujam

14. Ashok

15. Mohan

... Respondents / Decree Holders



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16. Ramu

17. Shanthi

18. Latha ...Respondents / Tenants

Respondents 1 to 18 are Minor

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the Order and Decreetal Order dated 16.07.2010 in E.A.No.363 of 1992 in E.P.No.7 of 1985 in RCOP No.210 of 1967 on the file of District Munsif, Udhagamandalam, as confirmed by order dated 30.01.2013 in Appeal Suit No.3 of 2012 on the file of Subordinate Judge / Appellate Authority of the Nilgiris at Udhagamandalam and set aside the same.

For petitioner : Mr.AL.Ganthimathi

ORDER:

The petitioner has filed this Civil Revision Petition against the Order and Decreetal Order dated 16.07.2010 in E.A.No.363 of 1992 in E.P.No.7 of 1985 in RCOP No.210 of 1967 on the file of District Munsif, Udhagamandalam, as confirmed by order dated 30.01.2013 in Appeal Suit No.3 of 2012 on the file of Subordinate Judge / Appellate Authority of the Nilgiris at

Udhagamandalam.

2. The deceased Gopalaswamy Naidu and the respondents herein filed RCOP No.210 of 1967. The Rent Controller ordered for eviction on 14.08.1968 and allowed the RCOP No.210 of 1967. Challenging the said order, one, deceased Gopalsamy Naidu had filed an appeal and the same was dismissed by order dated 27.10.1969. Further, a revision was filed and the revision was also dismissed and the order of eviction was confirmed. The respondents / landlords filed Execution Petition in E.P.No.7 of 1985 for delivery of property. After enquiry, the Executing Court ordered delivery on 25.09.1986. When the court amin has gone to the demised property with delivery warrant, the petitioner / respondent and one Gopalsamy obstructed the delivery. Therefore, the respondents filed an application in EA No.363 of 1992 to remove the obstruction made by the petitioner / respondent. The said application filed in the aforesaid EA was allowed and aggrieved by the said order, the petitioner has preferred an appeal in AS.No.3 of 2012 before the Subordinate Judge / Rent Control Appellate Authority, Nilgirs at Udhagamandalam. After considering the arguments of both parties, the appellate court passed the detailed orders and rejected the contention of the petitioner and dismissed

the appeal and confirmed the order passed by the learned District Munsif, Udagamandalam dated 16.07.2010 in EA.No.363 of 1992 in EP No.7 of 1985 in RCOP No.210 of 1967. Challenging the said order, the petitioner has preferred this Civil Revision Petition.

3. The learned counsel for the petitioner would submit that the petitioner is not the owner of the schedule mentioned property. The petitioner took the possession of the said property of 2-3/4 cents of vacant land on 19.07.1985 and the petitioner is in continuous possession and enjoyment of the demised property without any interference. Therefore, the petitioner has obstructed for the delivery of possession.

4. The court below had considered the oral and documentary evidences and had found that the petitioner / obstructor failed to establish independent title and also failed to establish his vendor's saleable right. In the absence of the evidence, claiming title and possession of the property from his vendor, the contention of the petitioner was rightly rejected by the court below. Further, it is seen from the order passed by the court below that the petitioner has not produced any material that the property claimed by the petitioner has independent title or right over the property

and therefore both the executing court as well as the appellate court has rightly dismissed the said application.

5. On perusal of the memorandum of grounds filed by the appellant, there is no valid grounds raised to entertain in the Civil Revision Petition. Therefore, this court finds no warrant to interfere with the orders passed by Executing Court as well as the Appellate Court.

6. In view of the above circumstances of the case, there is no error or illegality in the orders passed by both the courts below. Hence, the Civil Revision Petition fails.

7. Accordingly, the Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

सत्यमेव जयते

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D.KRISHNAKUMAR.J,

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To
The Subordinate Judge /
Rent Control Appellate Authority
of the Nilgiris at Udhagamandalam



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