



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2017
(Reserved on 10.03.2017)

WEB COPY

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRP(PD) (MD) Nos.525 and 526 of 2017
and
C.M.P(MD) Nos.2444 and 2445 of 2017

K.Jamuna Rani ... Petitioner in both CRPs

vs.

N.Hari Kannan ... Respondent in both CRPs

Petitions filed under Article 227 of the Constitution of India, to set aside the order dated 06.01.2017 passed in E.P.Nos.194 and 195 of 2015 in O.S.No.159 of 2011 by the Additional Sub-ordinate Judge, Madurai at Melur Camp.

For Petitioner : Mr.R.Senthil Kumar
For Respondent/Caveator : Mr.M.Ponniah

COMMON ORDER

These Civil Revision Petitions have been filed by the defendant against the fair order and decreetal orders passed in E.P.Nos.194 and 195 of 2015 in O.S.No.159/15, wherein, the execution court has directed the defendant to deliver vacant possession of the suit property to the decree holder by 24.02.2017 and also directed for payment of arrears of rent.

2.The facts of the case are that suit for possession was filed in the year 2011 and the decree was passed on 09.06.2015. The judgment debtor has filed a memo on 15.04.2015, giving an undertaking that she will vacate the property within two months. However, she has not vacated the property as per her undertaking. Therefore, petition for delivery of possession was filed. But there was no progress in the execution petition for various reasons and the decree holder, aggrieved by the delay, has approached this Court by way of CRP(PD) (MD) No.2015/16 and in the said revision petition, this Court in its order dated 04.10.2016, directed the execution court to dispose of E.P.No.194 of 2015 within a period of four months.



3. In the said order, this Court has extracted the dates of hearing in the execution petition and directed the execution court to expeditiously dispose of the execution petition, preferably within a period four months. Accordingly, the execution court after giving adequate opportunity to the parties, has ordered delivery of possession within two months and also granted direction for payment of rent. The said order was passed on 06.01.2017 and the decree-holder has paid batta.

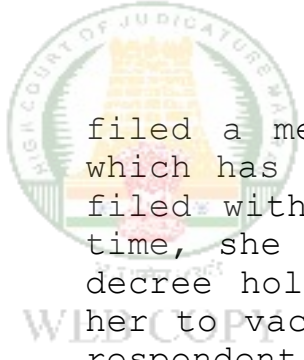
4. At this juncture, the judgment debtor has approached this Court by way of these revision petitions, alleging that having paid the entire arrears, the parties have compromised to hand over possession by September 2017. However, the decree holder is insisting upon taking delivery through the Court prior to the agreed date.

5. The learned counsel for the respondent/plaintiff contended that there was no agreement as claimed by the revision petitioner to wait till September 2017, but in fact, whenever the revision petitioner faces the execution of decree, by hook and crook, used to get extension of time by giving undertaking that she will vacate the premises on a specific date, but breached the said undertaking conveniently and take the decree-holder for ride.

6. The learned counsel for the respondent further submitted that earlier, the execution court fixed the date of delivery by 24.02.2017. At that juncture, the revision petitioner promised to vacate the premises by 24.02.2017 and clear all the arrears by then. The revision petitioner has paid Rs.1,44,502/- as per the decree, which is the subject matter of E.P.No.195/2015. But, however, she has not vacated the premises by 24.02.2017 as promised by her, stating her daughter's marriage which was held recently at Raja Muthaiah Mahal, Madurai. Even after six years from the date of filing of the suit, the respondent is unable to get possession of the property due to the dilatory tactics adopted by the revision petitioner. Further, there is no genuine reason on the part of the revision petitioner to be in the suit property any further.

7. This Court has given its anxious consideration to the rival submissions.

8. The impugned orders of the execution court in both the E.Ps clearly reveal the fact that the revision petitioner is taking advantage of leniency shown by the decree holder and the court, believing the undertaking given by the revision petitioner for vacating the premises on her own. It is borne by records that on 15.04.2015 itself, the revision petitioner through her counsel has



filed a memo that she will vacate the premises within 10 days, which has never happened. Again, on 28.04.2015, another memo was filed with an undertaking to vacate the premises and the third time, she has come out with these revision petitions, as if, the decree holder himself has agreed to wait till September 2017 for her to vacate, which is vehemently denied by the counsel for the respondent/decreed holder.

9. This Court holds that the decree holder is entitled for possession of the suit property as per the decree and the judgment debtor cannot take recourse to different tactics to prolong the litigation to squat over the property.

Hence, these Civil Revision Petitions are dismissed. No costs. Consequently, C.M.P(MD) Nos. 2444 and 2445 of 2017 are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Additional Sub-ordinate Judge,
Madurai at Melur Camp.

+2cc to M/s. R.SENTHIL KUMAR Advocate in SR. No.15315,15316
+2cc to M/s. M.PONNIAH Advocate in SR. No.14435

NBI
JS/KP/SAR.3/4/04/2017/3P-6C

CRP(PD) (MD) Nos.525 and 526 of 2017
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