



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2016

CORAM:

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P (MD) No.1497 of 2016 (PD)

- 1.Gandhimathi
- 2.Babu @ Rajendran
- 3.Muthupandi @ Muthuvel Pandian
- 4.Thangapandi @ Lakshmanan .. Petitioners/1 to 4 petitioners/
Respondents 1 to 5
- 5.Bose @ Pandithuraisamy .. 5th Petitioner/1st respondent/
2nd petitioner.

Vs.

Saraswathiammal (died)

- 1.A.R.Alamelu
- 2.P.Thiagarajan .. Respondents 1 & 2/Respondents 3 & 4/
Respondents 2 & 3/respondents
- 3.Veluchamy
- 4.Allirani .. Respondents 3 & 4/Respondents 5 & 6/
Legal heirs of deceased 1st respondent
- 5.Murugesan ... 5th Respondent/not a party

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, for issuance of a direction for speedy disposal of the application directing the Rent Control Authority (District Munsif Court), Theni to dispose of E.P.No.5 of 2013 arising out of R.C.O.P.No.3 of 1998 and the connected matters pending before him on a day today basis and in any case within 4 weeks of such direction.

For Petitioner : Mr.T.S.R.Venkatramana

For Respondent : Mr.B.Rajesh Saravanan

for R5

RR 1 and 2 : Given up

RR 3 and 4 : no appearance

ORDER

This revision is filed seeking for a direction to the Rent Controller/District Munsif, Theni, to dispose of E.P.No.5 of 2013 in R.C.O.P.No.3 of 1998 in a time frame.

<https://hcservices.ecourts.gov.in/hcservices/>

2. Heard the learned counsel for the petitioner as well as the learned counsel appearing for the fifth respondent and perused



the records. Respondents 1 and 2 are given up. There is no appearance for the respondents 3 and 4.

3. Mr.T.S.R.Vekatramana, learned counsel for the petitioner would submit that the petitioner as a Landlord initiated eviction proceedings against the tenants on the ground of wilful default and for sub-lessee in R.C.O.P.No.3 of 1998. After contest, the petition was allowed. Against that order, the tenants preferred an appeal in R.C.A.No.3 of 2005. Pending appeal, the Landlords filed an application in I.A.No.1 of 2006 under Section 11(4) of the Rent Control Act, for direction to deposit arrears of rent. Due to non-payment of the arrears, the appeal was dismissed on 09.01.2007. Thereafter, a revision was preferred by the tenants in C.R.P. (MD).No.410 of 2007 and the same was also dismissed on 27.11.2014, which was also confirmed by the Hon'ble Apex Court.

4. It is further submitted that the Landlords have filed an execution petition in the year 2013. In the execution petition, they filed applications to break open the lock of the premises and for police protection. Thereafter, the fifth respondent filed an application in E.A.No.5 of 2015 under Order 21 Rule 99 C.P.C.

5. Learned counsel for the petitioners further submitted that the application filed by the fifth respondent is not at all maintainable in law and it was filed with the sole object of prolonging the litigation. He would further submit that in the execution application, the petitioners are the contestant respondents and the other respondents are only formal parties, however, for non-service of notice to the other respondents, the application is being adjourned periodically and in view of the frivolous petition, the Landlord is not able to enjoy the fruits of the decree.

6. Per contra, Mr.B.Rajesh Saravanan, learned counsel appearing for the fifth respondent would submit that the fifth respondent is in possession, based on an unregistered mortgage deed and his application is to be treated as a suit and he shall be given an opportunity to pursue his case.

7. It is not in dispute that the petitioners are the contesting parties in the application in E.A.No.5 of 2015. Therefore, the executing court shall dispense with service of notice on the other respondents as they are unnecessary parties.

8. Considering the rival submissions made on either side, the Rent Controller(District Munsif), Theni, is directed to dispose of E.A.No.5 of 2015 and E.P.No.5 of 2013 in R.C.O.P.No.3 of 1998, as expeditiously as possible, preferably not later than



9. With the above direction, this Civil Revision Petitions is disposed of. No Costs.

Sd/
Assistant Registrar(T&P)

/True Copy/

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Sub Assistant Registrar.

To
The Rent Controller,
District Munsif Court,
Theni.

+1CC to M/S.T.S.R.Venkataramana, Advocate, SR.No. 48539
+1CC to M/S.B. Rajesh Saravanan, Advocate, SR.No. 49295

C.R.P(MD)No.1497 of 2016(PD)

PJL
AM/SS3/SAR-III/03.10.2016/3P/4C (IT)