

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:12.04.2018

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The Hon'ble Mr.Justice **P.VELMURUGAN**

CRP(PD).No.43 of 2018 &
C.M.P.No.146 of 2018

P.K.Murugesan

..

Petitioner

vs.

1.R.Nagaraj
2.N.Vasanthi

...

Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to struck of the plaint in O.S.No.1089 of 2013 on the file of the I Additional Sub Court, Coimbatore.

For Petitioner

... M/s.P.Saravana Sowmiyan

For Respondents

...Mr.Veerapathiran

ORDER

This Civil Revision Petition has been filed by the petitioner against the order passed by the trial Court in O.S.No.1089 of 2013 on the file of the 1st Additional Sub Court, Coimbatore.

2. The respondents filed the suit against the revision petitioner for eviction. According to the respondents/plaintiffs, the petitioner is

the landlord with his vendor. The Schedule of property absolutely belonged to this plaintiffs by virtue of sale deeds. After purchase of the property their vendors, the plaintiffs approached the defendant who is running a business at the suit property and informed the factum of purchase of the property to the defendant. The plaintiffs informed the defendant that the tenancy is terminated from plaintiffs requested the defendant to vacate the suit property to enable them to demolish the same and to put up a new building at the suit property. The defendant also agreed to the request of the plaintiffs but pleaded some time find a suitable place for his business. The plaintiffs agreed to the request of the defendant and permitted the defendant to run his business at the suit property for six months to enable him to find a suitable place for relocating his business. After a lapse of six months, the plaintiffs approached the defendant and pleaded him to vacate the suit property and hand over vacant possession of the suit property to go ahead with the demolition and reconstruction. The defendant sought further time to find a suitable place for relocating his business and hence the plaintiffs has no other go but to give further time to the defendant to vacate the suit property. Hence, the plaintiffs gave time of another six months to the defendant to vacate the suit property and were waiting for the stipulated period. Since the revision petitioner did

not vacate the premises, the respondents filed the suit. The suit is pending from 2013.

3. The suit is of the year of 2013 and the revision petitioner filed the written statement in the suit in O.S.No.1089 of 2013 which is pending before the 1st Additional Sub Court, Coimbatore in the year 2013 itself.

4. Now the learned counsel for the petitioner submits that the suit filed by the respondent in O.S. No. 1089 of 2013 before the Civil Court for eviction is not maintainable. The respondent should have approached the Rent Controller, even assuming the tenant has denied the title of the land lord. Contrary to that, they have approached the Civil Court, which is not maintainable under law.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

6. Admittedly, the suit is of the year 2013 and also the written statement was filed even in the year of 2013. The petitioner has not

filed any application either for rejection of the plaint or to try as preliminary issue and he was simply waiting for more than five years. Now, he has approached this Court seeking indulgence of this Court for exercising its jurisdictional power under Article 227 of Constitution of India and no adequate reason has been given as to why he has not filed any application either for rejection of plaint or to try as a preliminary issue. Hence, there is no merits in this petition.

7. Hence, this Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

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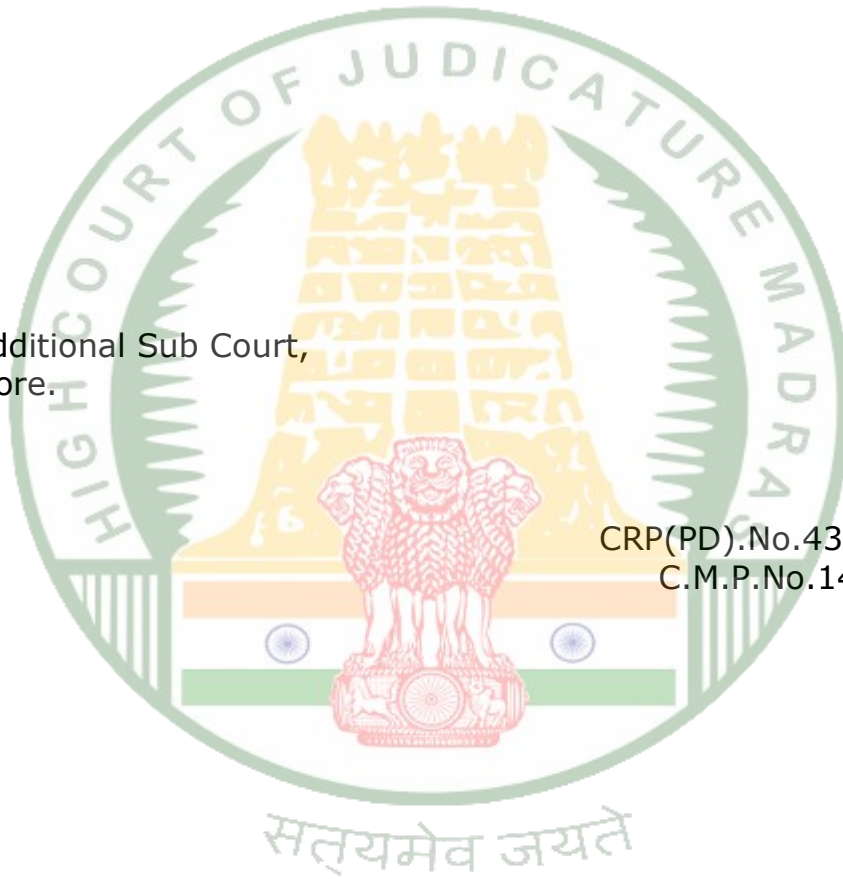
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P.VELMURUGAN.J,
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To

The I Additional Sub Court,
Coimbatore.



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