



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

CRP(MD).No.856 of 2014 and
M.P(MD).No.1 of 2014

T.M.Purusothaman(died)

R. Ramani

: Petitioner

Vs.

1.K.B.Vishnukandan

2.B.Manoharan

3.K.B.Bhoopalan

4.Padmanaban

: Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the returned order dated 11.02.2014 in I.A.SR.No.1345 of 2014 in E.P.No. 63 of 2013 in RCPO.No.6 of 1990 on the file of the Principal District Munsif Court, Kumbakonam, consequently, direct the Principal District Munsif Court to number the I.A.SR.No.1345 of 2014 on the file of the Principal District Munsif Court.

For Petitioner : Mr.R.Murali

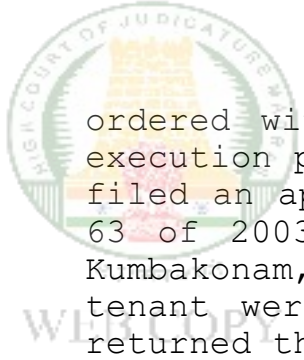
For respondents : No appearance.

O R D E R

This Civil Revision Petition is filed for setting aside the order dated 11.02.2014, passed in I.A.SR.No.1345 of 2014 in E.P.No. 63 of 2013 in RCOP.No.6 of 1990, on the file of the Principal District Munsif Court, Kumbakonam and consequently, to direct the Principal District Munsif Court to number the same.

2. Despite, it was reported earlier that the landlord has taken possession, the matter is being adjourned at the instance of the petitioner's counsel for getting instructions to withdraw this Civil Revision Petition.

3. This Court is able to see that, this Civil Revision Petition is filed by the wife of the tenant, against the order of the delivery, in execution of the order passed in RCOP.No.6 of 1990, on the file of the Principal District Munsif Court, Kumbakonam. It is the grievance of the petitioner that the delivery has been



ordered without even impleading the petitioner as a party in the execution proceedings. It is further stated that the petitioner has filed an application to reject the eviction order passed in E.P.No. 63 of 2003, on the file of the Principal District Munsif Court, Kumbakonam, on the ground that the legal heirs of the deceased tenant were not impleaded. Since the learned Rent Controller has returned the said application, the present revision has been filed.

4. Having regard to the fact that the eviction petition has been filed in the year 1990 and the delivery had already been effected through Court, this Court is unable to agree with the stand that the petitioner can challenge the order of delivery without giving any proof that she is in physical possession of the property. Further, the petitioner neither in the grounds of revision nor in the affidavit filed in support of this petition has stated that she is in possession any time before or after the death of the main tenant. The premises is a commercial one and it appears that the person, who is carrying on business was impleaded.

5. Considering the facts and circumstances of the case, this Civil Revision Petition is dismissed, by giving liberty to the petitioner to work out her remedy in the pending proceedings in C.R.P.(MD).No. 660 of 2005. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Principal District Munsif,
Kumbakonam.

Copy To:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

TRP

TE/JC/SAR-4 : 24/04/2018 : 2P/4C