



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2018

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .Nos.1022 & 1023 of 2018 andC.M.P. (MD) Nos.4406 & 8713 of 2018

WEB COPY

B.B.Premnath

... Petitioner/1st Respondent/
1st Defendant
in both petitions

Vs.

1.K.A.Bhoopalan

... 1st Respondent/Petitioner/
Plaintiff in both petitions

B.B.Arunkumar (Died)

2. T.L.Sabari Babu

3. B.A.Rani

4. B.A.Archana

5. B.A.Supriya

... Respondents 2 to 5/
Respondents 3 to 6/
Defendants 3 to 6
in both petitions

COMMON PRAYER : Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the orders passed in I.A.Nos.761 and 762 of 2017 in O.S.No.145 of 2009 on the file of the V Additional District Court, Madurai, dated 15.02.2018 and to allow these Civil Revision petitions.

For Petitioner : Mr.M.Sakthikumar in both petitions
For R-1 : Mr.S.Chandrasekaran in both petitions

C O M M O N O R D E R

O.S.No.145 of 2009 on the file of the V Additional District Judge, Madurai, is a suit for specific performance. The said suit came to be dismissed for default. Subsequently, an application for restoration was filed. But there was a delay 75 of days in filing the said application. Therefore, condone delay application was also filed. The Court below allowed both the Interlocutory applications, on an ex-parte basis. The first defendant has filed these Civil Revision petitions, questioning both the orders.

2. The learned counsel appearing for the plaintiff would submit that the Revision petitioner can as well move the Court below for setting aside the said ex-parte orders and that he need not straightaway invoke the jurisdiction of this Court under Article 227 of the Constitution of India.

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

3. I am of the view that the suit being one for specific



performance, the plaintiff should be allowed to prosecute the same to its logical conclusion.

4. In this view of the matter, the orders impugned in these Civil Revision petitions are not interfered with. The suit is of the year 2009. Therefore, the Court below shall dispose of O.S.No.145 of 2009 on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order.

5. With these directions, the Civil Revision petitions stand dismissed.

6. At this juncture, the Revision petitioner states that the plaintiff was originally inducted in respect of a portion of the property as a tenant. He had handed over physical possession of the front portion of the property in favour of third party, during the period when injunction was not in force. He would also claim that the plaintiff has not paid even a single pie towards rent from 2007 till then.

7. This Court grants leave to the Revision petitioner to file an additional written statement stating these aspects. However, such statement shall be filed within a period of one week from the date of receipt of a copy of this order.

8. The learned counsel appearing for the Revision petitioner states that there is no regular Judge holding Court and only an Incharge Judge is taking care of the matters.

9. The job of the Incharge Judge is not only giving dates. This Court directs the Incharge Judge concerned to take up this matter and dispose of the same within the period stipulated as above. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-I)

To The V Additional District Judge, Madurai.

• 2 CCs TO Mr.M.Sakthikumar , ADVOCATE IN SR No.88345.

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