



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2018
(Reserved on 14.12.2017)

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CORAM :
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CMP(MD)No.9496 of 2017
in
CRP.SR(PD) (MD)No.41352 of 2017

Muthu Naidu

... Petitioner

vs.

Mrs.Subaitha Beebi (Died)

- 1)Mr.Mohammed Iqbal
 - 2)Mr.Mohammed Jalil
 - 3)Mr.Kalilur Raguman
 - 4)Mr.Abdul Jalil
 - 5)Mrs.A.S.Rabhika
 - 6)Mrs.Thithaga Begam
 - 7)Mr.Sekar
- (R-7 Given-up)

... Respondents

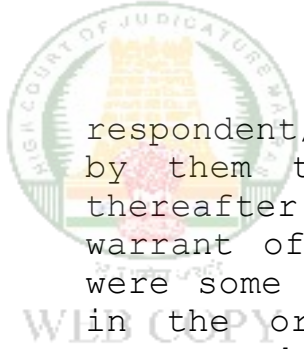
PRAYER IN CMP(MD)No.9496 of 2017: CMP filed under Section 151 of the Civil Procedure Code, to grant leave to file the Civil Revision Petition challenging the order passed in E.P.No.55 of 1993 in O.S.No.77 of 1992 on the file of the learned Principal District Munsif Court, Manapparai.

PRAYER IN CRP.SR(PD) (MD)No.41352 of 2017: filed under Section 115 of the Civil Procedure Code, against the docket order dated 21.09.2017 and consequential order dated 06.10.2017 passed in E.P.No.55 of 1993 in O.S.No.77 of 1992 on the file of the learned Principal District Munsif Court, Manapparai.

For Petitioner : Mr.B.Prahalad Ravi

ORDER

The revision petitioner who is a third party, has filed this revision petition against the docket order dated 21.09.2017 and consequential order dated 06.10.2017 passed in E.P.No.55 of 1993 in O.S.No.77 of 1992 on the file of the learned Principal District Munsif Court, Manapparai.



respondent/defendant, stating that the said property was let out by them to the 7th respondent. They obtained a decree and thereafter filed execution petition and EP was allowed and the warrant of delivery was returned by the Amin stating that there were some discrepancies in the measurements of the suit property in the original petition and decree copy. Subsequently, it appears that based on the report of the Amin, the Government has filed revision petition in CRP.No.1690 of 2011 and under the guise that an interim order was passed the said CRP, E.P has been delayed and finally on 21.09.2017, the learned Judge stating that no order of stay as recorded in E.A.No.62 of 2010 which was said to be passed in CRP.No.1690 of 2011 was produced before the Court and therefore, ordered delivery of possession by 06.10.2017. But, delivery of possession was not given for want of VAO, Surveyor and police help. On 06.10.2017, the court allowed the petition filed seeking VAO and Surveyor and police help and also for break open. While passing that order, the Court recorded that the present E.P is the oldest matter pending before the Court and therefore, ordered delivery of property by break open with the help of revenue officials and police by 10.11.2017.

3.Against this order, the present petitioner who is totally a stranger to the above proceedings has filed this petition to grant leave stating that 7th respondent handed over possession to him and he is running a hotel business by using the property as kitchen.

4.This Court was not inclined to grant leave and hence directed the petitioner to file an undertaking affidavit to vacate the premises. Due to intervening Deepavali, the Court has adjourned the matter after Deepavali holidays directing the petitioner to file undertaking affidavit to vacate the premises. He filed an undertaking affidavit stating that he would vacate the premises in five months and therefore in the grant leave petition notice was ordered to the respondents returnable by 06.11.2017. Private Notice was also permitted.

5.On perusal of records it is found that the petitioner is totally a stranger to the above proceedings and he has got nothing to do with the above proceedings and only to drag on the proceedings, by making false averments, he has come forward with the present revision petition challenging the orders dated 21.09.2017 and 06.10.2017 as if he was in possession of the suit property and such a petition in my considered opinion is only a clear abuse of process of the court and the petitioner has got no right over the suit property to contest the suit proceedings and therefore, the grant leave petition is liable to be dismissed.



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No.41352 of 2017 is rejected.

Sd/-

Assistant Registrar(CO)

/True copy/

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Sub Assistant Registrar

To

The Principal District Munsif Court,
Manapparai.

+1cc to Mr.B.PRAHLAD RAVI,Advocate,SR. 43315

CMP (MD) No.9496 of 2017

IN

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19.01.2018

BALA

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