



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 06.07.2018  
CORAM  
THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

WEB COPY

C.R.P(MD).No.1300 of 2018 and  
CMP(MD).Nos.5544 and 5886 of 2018

K.R. Thangamani ... Petitioner / Judgment Debtor  
Vs.

K.B. Rabindranath

1.K.R. Samyuktha  
2.K.B.R. Anopchand  
3.Sarayu Basanth ... Respondents / Decree Holder

Prayer: This Civil Revision Petition is filed under Section 115 CPC against the order passed by the learned Additional District Munsif, Madurai Town in un-numbered E.A.No..... of 2018 in E.A.No.782 of 1996 in E.P.No.224 of 1970 in O.S.No.61 of 1965 dated 19.06.2018.

For Petitioner ... Mr. R. Balakrishnan  
For respondents ... Mr. V.R. Shanmuganathan

ORDER

The petitioner has filed the present Civil Revision Petition to set aside the order passed in un-numbered E.A.No..... of 2018 in E.A.No.782 of 1996 in E.P.No.224 of 1970 in O.S.No.61 of 1965 dated, 19.06.2018, on the file of the Additional District Munsif, Madurai Town.

2. The revision petitioner, who is the Judgment Debtor, has originally filed an appeal against the order passed by this Court in C.R.P(MD).No.773 of 2018, dated 10.04.2018 in S.L.P.No.13970 of 2018, before the Hon'ble Supreme Court and the same is still pending. While so, the petitioner has filed the present Civil Revision Petition under Section 115 CPC seeking to pass an order not to record delivery of the petition mentioned property as far as the portion of petitioner's possession is concerned, till the disposal of the SLP.

3. This Court by order dated 10.04.2018 in CRP(MD).No. 773 of 2018 has passed the following order:

<https://hcservices.ecourts.gov.in/hcservices> Heard both sides and perused the documents available on record.



3. This Court is inclined to accept the case of the petitioner that the petitioner wanted two months time to vacate and hand over the vacant possession of the property to the Respondents 1 to 3, and therefore, this Court directed the petitioner to file an affidavit to that effect. Accordingly, the petitioner has filed an affidavit today in which he has stated as follows:

"3. I submit that the Respondents 1 to 3 herein had obtained an order of delivery in E.A.No.782 of 1996 in E.P.No.224 of 1970 on the file of the learned Additional District Munsif, Madurai.

4. I submit that I could not find alternative place to carry on my business within a short period of time. Hence, in the interest of Justice it is just and necessary to grant me two months time to vacate and hand over the vacant possession of the property to the Respondents 1 to 3 herein".

5. A copy of the affidavit has also been given to the respondents 1 to 3 and they also agreed to grant time to the petitioner for a period of two months to vacate and hand over the vacant possession of the property to the Respondents 1 to 3. Considering the averments made in the affidavit, this Court is inclined to grant time for two months from today i.e., on 10.04.2018 till 10.06.2018.

6. The petitioner is directed to hand over the possession along with key at 10.30 a.m., on 11.06.2018 to the respondent. The affidavit filed by the petitioner shall form part of this order.

7. Hence, this Civil Revision Petition is disposed of accordingly."

4. Originally this Court by order dated 28.06.2018, directed the Executing Court to number the un-numbered application in E.A.No. ... of 2018 in E.A.No. 782 of 1996 in E.P.No.224 of 1970 in O.S.No.61 of 1965, on the file of the Additional District Munsif, Madurai Town and pass appropriate orders within a period of two weeks. Till such time, the Executing Court was directed not to proceed with the Execution Petition. While so, on 05.07.2018, learned counsel appearing for the respondents appeared before this Court and mentioned that the property has already been delivered and apart from this property, in respect of other properties Civil Revision Petitions have been filed before this Court. Therefore, I recalled the said order, dated 28.06.2018 and directed the Registry to list the matter today i.e



on 06.07.2018.

5. Today, when the matter was taken up for hearing, the learned counsel appearing for the petitioner represented that though the property was stated to be delivered to the decree holder, the possession has not been taken and he is in absolute possession of the property.

6. Per contra, the learned counsel appearing for the respondents / decree holder represented before this Court that the property was already delivered by the Bailiff through Court and the report also filed by the Bailiff, which was enclosed in the Typed Set of papers in page Nos.16 and 17 filed by the respondents / decree holder. Apart from this, the learned counsel appearing for the petitioner has filed an application for numbering not to record delivery of the petition mentioned property as far as the petitioner's possession is concerned till the disposal of SLP(c).No. 13970 of 2018. Therefore the Executing Court without entertaining that application returned the same, which was challenged by the petitioner in this Civil Revision Petition

7. I have heard the learned counsel appearing on either side and perused the materials available on record.

8. Admittedly, the appeal in SLP.No.13970 of 2018 is pending before the Hon'ble Supreme Court without any interim order. Apart from this, the property was delivered to the respondents / decree holders by the Bailiff through Court and the report enclosed in the Typed Set of papers in Page Nos. 16 and 17, filed by the respondents is clearly reveals that the property was delivered by the Bailiff and the Key also handed over to the respondents and hence, the relief not to record the delivery is not at all possible. If at all the petitioner is having any grievance, he should work out his remedy before the Hon'ble Supreme Court. Hence, this Civil Revision Petition is liable to be dismissed.

9. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/  
Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar



To

The Additional District Munsif,  
Madurai Town.

+1cc to Mr.R.BALAKRISHNAN, Advocate, SR.No.71849

+1cc to Mr.VR.SHANMUGANATHAN, Advocate, SR.No.71560

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KK/VR/SAR-4/09.07.2018/4P-4C/