



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

C.R.P(MD)No.2139 of 2016 (NPD)
and
C.M.P. (MD).No.10009 of 2016

Muthulakshmi .. Petitioner/Respondent / Respondent
Vs.

G.Rajasekar ... Respondent/Petitioner / Petitioner

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order, dated 27.09.2016, passed in E.P.No.46 of 2015 in R.C.O.P.No.23 of 2013 by the learned District Munsif, Ramanathapuram.

For Petitioner : Mr. P.T.S.Narendravasan
For respondent : Mr.V.Ramakrishnan

ORDER

The petitioner / tenant has filed this petition challenging the docket order, dated 27.09.2016, passed in the execution petition.

2. The respondent has purchased the petition mentioned property from the original owner on 11.10.2011 and the petitioner, who was tenant of the original owner of the said property, also paid rent to the respondent till February, 2012 and from March, 2012, he has committed willful default. Hence, the respondent has filed R.C.O.P.No.23 of 2013. Though the petitioner entered appearance through counsel, he failed to file written statement and therefore, he was set ex parte on 27.02.2014 and the same was, later, set aside after nearly 9 months. Subsequently, Seeking time for cross examination of PW1, the petitioner had dragged on the matter about one year and again remained ex parte on 07.04.2015. Without filing any petition to set aside the ex parte order, the petitioner contested the execution petition and after due contest, the delivery was ordered. Challenging the order in the execution petition, he has filed C.R.P.(MD).No.1029 of 2016, but, subsequently, he withdrew the same. Thereafter, the petitioner filed I.A.No.44 of 2016 seeking to condone the delay of 350 days in filing a petition to set aside the ex parte order, dated 07.04.2015. During the pendency of the same, the petitioner had filed E.A.No.52 of 2016 in E.P.No.46 of 2015 seeking to stay the order of delivery pending disposal of the petition filed to set aside ex parte order. Since the delay petition filed in I.A.No.44 of 2016 was dismissed, the Court below



consequently dismissed E.A.No.52 of 2016 and posted the matter for delivery on 01.11.2016. While so, the order passed in E.P.No.46 of 2015, dated 27.09.2016, the petitioner has filed this revision petition.

3. When the matter came up for hearing on 14.03.2018, this Court expressed its view that from the perusal of the documents, it is clear that the attitude of the petitioner is only to drag on the matter and that the execution Court cannot go beyond the decree and there is no infirmity in the order passed by the Court below, the learned counsel for the petitioner requested six months time to vacate the property. For granting six months time, this Court directed petitioner to file an undertaking affidavit to the effect that the petitioner will deposit the arrears of rent within a period of one week, pay the rent regularly and vacate the premises within a period of six months, for which he prayed for time to get instructions.

4. Today, when the matter is taken up for hearing, the learned counsel for the petitioner submitted that the petitioner is not willing to file the undertaking affidavit.

5. In view of the above, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is also dismissed. No costs.

Sd/-

Assistant Registrar(C.o.)

/True Copy/

Sub Assistant Registrar

To
The District Munsif, Ramanathapuram.

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The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai(2 copies)

+1CC to Mr.P.T.S.Narendravasan, Advocate, SR.No. 56345
+1CC to Mr.V.Ramakrishnan, Advocate, SR.No. 56116

order made in
C.R.P(MD)No.2139 of 2016 (NPD)
19.03.2018