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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 08.10.2018
CORAM :
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) (NPD) No.2209 of 2018

Santhiyagu

... Petitioner

/Vs./

1. Innasi

2. Arokkiammal, Ex.Village Panchayat President,
Saveriyarpattinam Post,
Kadaladi Taluk, Ramanathapuram District.

3. Vijayakumar, Tahsildar,
Tahsildar Office,
Kadaladi Taluk, Ramanathapuram District.

4. Selkam,
Block Development Officer,
Block Development Office,
Kadaladi Taluk, Ramanathapuram District.

5. Nagaraj, Revenue Officer,
Kadaladi Taluk, Ramanathapuram District.

6. Navaneethan, Marandhai Group,
Village Administrative Officer,
Kadaladi Taluk, Ramanathapuram District.

7. Government of Tamil Nadu,
Represented by
The District Collector,
Ramanathapuram District.

... Respondents

Prayer: Civil Revision Petition - filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order passed in E.P.No.06 of 2017 in O.S.No.33 of 2008 on the file of the District Munsif Court, Mudukulathur dated 22.01.2018 and issue notice to them and detain in civil prison.

For Petitioner	: Mr.K.Kumaravel
For R-1	: Mr.K.Appadurai
For R-3	: Mr.George Paul Anto
For R-6	: Mr.S.Krishnan
For R-7	: Mr.M.Karuppasamy
	Government Advocate

**ORDER**

The revision petitioner is the plaintiff in O.S.No.33 of 2008 on the file of the District Munsif Court, Mudukulathur. The suit was decreed on 09.03.2015. To enforce the same, E.P.No.2 of 2016 was filed. Possession of the property was handed over to the revision petitioner. But then, the decree for mandatory injunction was not complied with. Hence, the revision petitioner filed E.P.No.06 of 2017 for causing the arrest of the respondents. The Court below by order dated 22.01.2018 dismissed the said EP. Aggrieved by the same, the present civil revision petition has been filed.

2. Heard the learned counsel on either side.

3. It is not in dispute that the revision petitioner is having an executable decree in his favour. It is true that the first respondent herein has filed A.S.No.92 of 2017 on the file of the Sub Court, Mudukulathur. It is also not in dispute that no interim order has been granted in the said first appeal.

4. The learned counsel appearing for the respondents including the Government counsel submitted that on account of the action of the revision petitioner, there has been a generation of health hazard.

5. This submission is taken note of by me. What disturbs this Court is that after passing of decree by a competent civil Court, the Sub Collector, Paramakudi, has chosen to pass an order on 05.11.2015 under Section 142 Cr.P.C.. Any order passed by an Executive Magistrate will not have any effect the moment the civil Court passed a decree or order. In this case, civil Court has already passed an order. The Executive Magistrate could not have passed an order in defiance of the civil Court decree. Prima facie, the said order amounts to contempt.

6. However, this Court is able to note that only to serve a larger public interest, such an order has been passed by the authority. That is why, I am inclined to take a lenient view. However, the present Sub Collector, Paramakudi is directed to recall the said order dated 05.11.2015 forthwith. If the said order is not recalled within a period of two weeks from the date of receipt of a copy of this order, consequences will follow. The order impugned in this civil revision petition is set aside. The matter is remitted to the file of the Executing Court. However, the execution proceedings shall be kept in abeyance and put on hold for a period of four months. The first appellate Court is directed to dispose of A.S.No.92 of 2017 on merits and in accordance with law



within a period of two months from the date of receipt of a copy of this order. Accordingly, this civil revision petition is allowed. No costs.

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/True Copy/

Sd/-

Assistant Registrar(RTI)

Sub Assistant Registrar(CS-III)

To

1.The District Munsif,
Mudukulathur.

2.The Sub Judge, Mudukulathur.

3.The District Collector,
Ramanathapuram District.

4.The Sub Collector, Paramakudi.

+1CC to Mr.K.APPADURAI, Advocate, SR.No.89370

+1CC to Mr.George Paul Anto, Advocate, SR.No.89179

+1CC to Mr.K.Kumaravel, Advocate, SR.No.89099

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ES/SKN/RSK/SAR 3/15.11.2018/3P/8C