



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 11.10.2018

Coram

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P. (MD) .No.2278 of 2018

and

C.M.P. (MD) .No.10210 of 2018

K.Subramaniyan Chettiar (died)

1.Chellammal

2.Velmurugan

3.Duraikamakshi

4.Thangavel

(Petitioners 1 to 4 are represented

by their power agent S.U.Giri Thevar

Paravakkottai Village, Mannargudi Taluk,

Thiruvarur District)

...Petitioners/Respondents/Respondents

Vs.

Chidambaram

... Respondent/Petitioner/Petitioner

Prayer: Civil Revision Petition filed under Section 115 of C.P.C to set aside the fair and decretal order dated 16.08.2018 passed in E.P.No.8/2012 in R.C.O.P.No.2/2005 by the learned District Munsif, Pattukkottai (on the file of the Rent Controller/District Munsif Court, Pattukkottai).

For petitioners : Mr.P.Thiagarajan

For respondent : Mr.R.Nandakumar for Caveator

ORDER

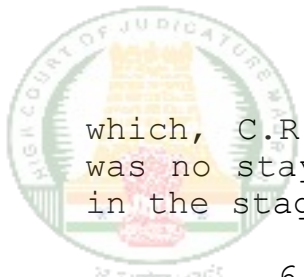
Order of delivery passed by the Execution Court in pursuant to the eviction order passed in R.C.O.P.No.2/2005 is sought to be challenged in this revision.

2.The main contention of the revision petitioners is that the order of eviction was passed exparte, as against which, a Rent Control Appeal was filed, which was also dismissed. Against which, a revision is pending before this Court in C.R.P.(MD).No.250/2018. Without considering the above aspect, the Execution Court has ordered delivery, which is against Law and not permissible.

3.It is the further contention of the learned counsel appearing for the revision petitioners that he has valid grounds to succeed in this revision. In view of the order of delivery, he will be put to irreparable loss. Hence, prayed for admitting the Civil Revision Petition.

4.Heard the learned counsel appearing for the parties and perused the entire materials.

5.Admittedly, in R.C.O.P, originally, the eviction was ordered on 30.03.2011. The R.C.O.P is of the year 2005. RCA filed against the said order was dismissed on 27.06.2017. As against



which, C.R.P is pending in C.R.P.(MD).No.250/2018. Further, there was no stay whatever granted by this Court. In fact, it is pending in the stage of notice of motion, not even admitted.

6.It is well-settled that mere pendency of the appeal or revision will not prevent the trial court from passing any order. Until and unless there is a stay by the Appellate Court, mere pendency of the appeal will not deter the Trial Court to pass orders on merits. Therefore, I am of the view that the Trial Court, taking into consideration of the entire materials, has passed a detailed order, ordering delivery. The same does not have any infirmity or illegality. Accordingly, this revision petition lacks merits and is liable to be dismissed.

7.In the event of revision petitioners succeeding in the revision, filed by them as against eviction order, they are entitled to file application for restoration of their possession. Till such time, they cannot have a say in this matter. Accordingly, this revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

8.At this stage, the learned counsel appearing for the revision petitioners contended that some time may be granted to vacate the premises. Though they seek 6 months time, the learned counsel appearing for the respondent will contend that 4 months time will be suffice.

9.Considering the submissions of both sides, 4 months time is granted from today to vacate and deliver the vacant possession of the premises. Since a special undertaking was given by the revision petitioners before this Court to vacate the premises in time, in the event of failure to vacate and hand over the premises, they will be proceeded under the Contempt of Courts Act.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-I)

To
The District Munsif Court/Rent Controller,
Pattukkottai.

+1CC to Mr.P.Thiagarajan, Advocate, SR.No.90389

+1CC to Mr.R.Nandakumar, Advocate, SR.No.90322

C.R.P.(MD).No.2278 of 2018

11.10.2018

VS

<https://hcservices.ecourts.gov.in/hcservices/>
ES/SKN/RSK/SAR 1/01.11.2018/2P/4C