

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.06.2019

C O R A M

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CRP (PD) No.3663 of 2010 and
M.P.No.1 of 2010

1. Sri Lakshmi Mechanical Works
Represented by its Partner Rangasami,
1-A, New No.58, Valipalayam Main New Extension,
Tiruppur.

2. C.Rangasamy ... Petitioners

Vs.

1. N.Thirumalaisamy (died)
2. T.Murugasamy
3. Lakshmi
4. Anuradha

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the
Constitution of India against the orders dated 03.08.2010 passed in
E.A.No.202 of 2000 in E.P.No.67 of 2000 by the District Munsif, Tiruppur.

For Petitioners : Mr.P.Valliappan

For Respondents : Mr.T.N.Hariharan (for R2)

ORDER

This Civil Revision Petitioners are the respondents 1 and 2 in E.A.No.202 of 2000 in E.P.No.67 of 2000 on the file of the District Munsif, Tiruppur. The revision petitioners and the respondents 3 and 4 herein are tenants under one N.Thirumalaisamy, the first respondent herein. The said N.Thirumalaisamy filed an eviction petition in RCOP No.22 of 1994 against the tenants and the said petition was allowed. Subsequently, he filed an execution petition in E.P.No.67 of 2000 for delivery of vacant possession of the tenanted premises. During the pendency of the said execution petition, the said N.Thirumalaisamy (first respondent) and his son T.Murugasamy (2nd respondent) filed E.A.No.202 of 2000 contending that N.Thirumalaisamy executed an irrevocable settlement deed dated 15.09.1999 in favour of the 2nd respondent and therefore, the 2nd respondent is also entitled to continue the execution proceedings in the above RCOP. The present revision petitioners and the 3rd and 4th respondents filed their respective counters denying all the allegations of the respondents 1 and 2. The learned District Munsif, Tiruppur, after analysing the evidence on record, allowed the said petition in E.A.NO.202 of 2000 in E.P.No.67 of 2000 filed under Section 146 of the Code of Civil Procedure, vide her orders dated 03.08.2010. Aggrieved over the same, the revision petitioners/tenants filed

the present revision petition.

3. Mr.P.Valliappan, learned counsel appearing for the revision petitioners would contend that T.Murugasamy, the 2nd respondent herein had executed a fresh lease agreement in favour of the revision petitioners and during the pendency of the civil revision petition, the first respondent N.Thirumalaisamy died and therefore, all his legal heirs have got to be brought on record. His another contention is that the said N.Thirumalaisamy had two daughters and they filed a suit before a civil court seeking for partition of the suit property and that therefore, the orders passed by the executing court allowing the E.A.No.202 of 2000 filed by the first and 2nd respondent under Section 146 of the Code of Civil Procedure, seeking for addition of 2nd respondent T.Murugasamy to continue the execution proceedings, cannot be sustained.

3. Per contra, Mr.T.N.Hariharan, learned counsel appearing for the 2nd respondent would contend that the present revision petitioners are the tenants in the said premises and that the suit filed by the daughters of late N.Thirumalaisamy has already been disposed of. It is further contended by him that the executing court after perusing the settlement deed executed by the first respondent herein (since died), had allowed the application in E.A.No.202 of 2000 and there is no need to interfere with the

findings recorded by the executing court.

4. At the outset, it may be observed that the civil revision petitioners are the tenants in the premises and even if there is a dispute between the legal heirs of late N.Thirumalaisamy, the civil revision petitioners are not concerned with the same. It is also pertinent to point out that E.A.No.202 of 2000 in E.P.No.67 of 2000 was filed during the life time of N.Thirumalaisamy, the first respondent herein. When the settlement deed dated 15.09.1999 was presented by him and his son, the tenants cannot dispute the execution of the settlement deed executed by N.Thirumalaisamy in favour of his son T.Murugasamy, the 2nd respondent herein. As already observed, the civil revision petitioners are mere strangers as far as the family of N.Thirumalaisamy is concerned.

5. The civil revision petitioners filed another RCOP No.14 of 2000 before the same court and the first respondent late Thirumalaisamy (since deceased) filed his counter contending that he executed a settlement deed in favour of the 2nd respondent. Thus, it is clear that the settlor N.Thirumalaisamy, during his life time admitted that he settled the tenanted premises in favour of his son T.Murugasamy, the 2nd respondent herein. The executing court clearly held that there is no evidence on record to show that the settlement deed was challenged by other legal heirs

of Thirumalaisamy (since deceased) and the 2nd respondent has become entitled to the subject matter of the execution proceedings. All the observations made by the executing court are well founded and I do not see any reason to interfere with the findings recorded by the learned District Munsif, Tiruppur.

6. In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. The orders passed by the executing court is upheld.

27.06.2019

Index : Yes/No
Internet : Yes/No
Speaking/non-speaking order
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To

1. The District Munsif, Tiruppur

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R.HEMALATHA,J.
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