

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Civil Appellate Jurisdiction )

Friday, the Eighteenth day of October Two Thousand Nineteen

PRESENT

THE HON`BLE MR JUSTICE R.SUBBIAH

AND

THE HON`BLE MRS JUSTICE T. KRISHNAVALLI

CMP No.900 AND 902 of 2018  
IN WA.NO.394 AND 231 OF 2011

MRS. K.RADHALAKSHMI [ PETITIONER IN BOTH THE PETITIONS]  
NO. 27 VENKATANARAYANA ROAD, T. NAGAR,  
CHENNAI -600 017

Vs

1 M/S. INDIAN AUTO GAS [ 1<sup>st</sup> RESPONDENTS CMP No.900 OF 2018 ]  
COMPANY, LTD BY ITS  
CHIEF EXECUTIVE OFFICER, MR. ANTONY THOMAS,  
NO. 3/88, MOUNT POONAMALLEE HIGH ROAD,  
RAMAPURAM, CHENNAI 600 089

1 M/S. PREETHI ENTERPRISE, [ 1<sup>st</sup> RESPONDENTS CMP No.902 OF 2018 ]  
REP BY ITS PROPRIETOR,  
C.J.FRANCIS, S/O.JOHN,  
OLD NO. 3/88, MOUNT POONAMALLEE HIGH ROAD,  
RAMAPURAM, CHENNAI 600 089

2 THE STATE OF TAMILNADU [2 TO 6 RESPONDENTS IN BOTH THE PETITIONS]  
REP BY ITS SECRETARY TO GOVERNMENT  
GOVT OF DEPARTMENT OF REFORMS  
FORT ST. GEORGE, CHENNAI -600 009

3 THE SPECIAL COMMISSIONER  
AND COMMISSIONER OF URBAN LAND CEILING  
AND URBAN LAND TAX, CHEPAUK, CHENNAI -600 005

4 THE ASSISTANT COMMISSIONER  
MYLAPORE (URBAN LAND VEILING, KODAMBAKKAM, CHENNAI -600 024

5 THE ASSISTANT COMMISSIONER  
(URBAN LAND CEILING, ) DOOR NO. 153  
KODAMBAKKAM, CHENNAI 600 024

6 TELLACE PLANTS AND  
EQUIPMENTS PVT LTD UNDER PROCESSING OF  
STRIKING OFF 3/88 MOUNT POONAMALEE HIGH  
ROAD RAMAPURAM CHENNAI -89

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to direct the Honourable Sub Court Poonamallee to dispose the Execution petition No. 2 of 2014 in OS. No. 281 of 2010 within a time as may be stipulated by this Honourable Court IN CMP.NO.900 OF 2019 and;

(II) To direct the sub Court Poonamallee to dispose E.P.No 115/2012 in O.S. No. 34 of 2008 within a time as may be stipulated by this Honourable Court IN CMP.NO.902 OF 2019 Respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.P.SUBBA REDDY, Advocate for the petitioner and of MR.A.RAMASWAMY, ADVOCATE on behalf of the 1<sup>st</sup> Respondents the court made the following order:-

CMP No. 900 of 2018 is filed by the petitioner praying to direct the Sub Court, Poonamallee to dispose of the Execution Petition No. 2 of 2014 in O.S. No. 281 of 2010.

2. CMP No. 902 of 2018 is filed to direct the Sub Court, Poonamallee to dispose of E.P. No. 115 of 2012 in O.S. No. 34 of 2018 within a time limit as may be fixed by this Court.

3. When the above Petitions were taken up for hearing today, the learned counsel for the petitioner invited the attention of this Court to the order dated 26.07.2017 passed by this Court in W.A. No. 394 of 2011, which reads as follows:-

"This Writ Appeal is preferred by the petitioner/appellant challenging the order of dismissal dated 02.02.2011 in WP No. 24935 of 2019.

2. The original owner Tmt. K. Radhalakshmi has filed the suit in O.S. No. 281 of 2000 on the file of Sub Court, Poonamallee, for recovery of possession and allied reliefs and it was decreed. The appellant herein made a challenge to the decree of the trial court by filing the appeal suit, which has been entertained as A.S. No. 61 of 2013 and it was partly allowed, confirming the order of decree of possession and with regard to damages, it was dismissed. The original land owner did not prefer any appeal, however, the appellant/judgment debtor has filed the Second appeal during the year 2016 and it is yet to be numbered.

3. Mr. P. Subba Reddy, learned counsel appearing for the decree holder/5th respondent submitted that the original owner Tmt. K. Radhalakshmi (5th respondent herein) has not been paid with the arrears of Rs.21,20,000/- by the appellant and without paying the

same, the appellant-company cannot be allowed to squat the property.

4. The learned counsel appearing for the appellant/petitioner would submit that steps have already been taken to number the Second Appeal, and it is likely to be listed in the admission very shortly. Therefore, there may not be any necessity to pass orders directing the appellant/petitioner to deposit the arrears of lease amounts/rents.

5. It is brought to the knowledge of this Court that the appellant/petitioner has not paid the lease amounts/rents for a period of 101 months (one hundred and one months). Since it appears that the appellant/petitioner did not pay the arrears of rents for the said period, this Court is of the considered view that the petitioner/ appellant cannot be allowed to squat the property without paying anything. Therefore, the petitioner/appellant, without prejudice to their rights and contentions, shall deposit Rs.21,21,000/- (Rupees Twenty One Lakhs Twenty one thousand only) to the credit of this writ appeal before 14.09.2017 and in that event of such deposit, their possession shall be protected, otherwise, if default is committed, it is indicated that further proceedings shall follow.

6. Post the writ appeal on 14.09.2017."

4. It is also stated that the first respondent herein has also filed a petition for extension of time in CMP No. 15844 of 2017 and by order dated 19.09.2017, this Court extended the time for compliance of the order dated 26.07.2017. The order dated 19.09.2017 reads as under:-

"5. In the result, the petition is ordered and eight weeks time is granted to comply with the conditional order passed by this Court in W.A. No. 394 of 2011 dated 26.07.2017 and it is made clear that no further extension of time will be granted. In any circumstances and in the event of failure to comply with the original order as well as this order, the interim order granted shall stand vacated without further reference to this Court. The petitioner, apart from depositing the outstanding arrears as ordered by this Court, shall also deposit a sum of Rs.21,000/- per month to the credit of W.A. No. 394 of 2011 from July 2017. The arrears of rent for the months of July and August, 2017, shall be deposited along with the outstanding arrears and further, the monthly rent payable from September, 2017 shall be deposited on or before 5th of every succeeding English Calendar month to the credit of this Writ Appeal in W.A. No. 394 of

2011, failing which the interim order granted shall stand vacated automatically.

6. It is made clear that on payment of monthly rent as ordered by this Court and the conditional order regarding the arrears of monthly rent being complied with, the petitioner's possession shall not be disturbed till 14.11.2017. In the event of default in either of the conditions, it is once again made clear that the interim order granted shall stand vacated automatically without further reference to this Court.

7. Post the matter on 20.11.2017."

5. The learned counsel appearing for the petitioner would submit that the order dated 26.07.2017 and 19.09.2017 passed by this Court in W.A. No. 394 of 2011 has not been complied with by the first respondent herein viz., M/s. Indian Auto Gas Company and therefore, he prayed for allowing these petitions.

6. On the above contention, we have heard the learned counsel for the first respondent.

7. Admittedly, the conditional Order dated 26.07.2017 and 19.09.2017 passed by this Court in W.A. No. 394 of 2011 has not been complied with by the first respondent herein. The first respondent also did not prefer any appeal before the Honourable Supreme Court as against the orders dated 26.07.2017 as well as 19.09.2017 and it reached a finality. As the first respondent has committed default in complying with the order dated 26.07.2017 passed by the Division Bench of this Court, the interim stay granted by this Court shall stand vacated automatically. Consequently, the petitions filed by the petitioners herein for a direction to the Execution Court deserves to be allowed.

8. Accordingly, CMP Nos. 900 and 902 of 2019 are allowed. The learned Subordinate Judge, Poonamallee is directed to dispose of the Execution Petition No. 2 of 2014 in O.S. No. 281 of 2010 as well as E.P. No. 115 of 2012 in O.S. No. 34 of 2018 within a period of four months from the date of receipt of a copy of this order.

9. Post the matter for further hearing after four weeks.

-sd/-

18/10/2019

/ TRUE COPY /

Sub-Assistant Registrar ( Statistics / C.S. )  
High Court, Madras - 600 104.

TO

1 THE SECRETARY TO GOVERNMENT  
STATE OF TAMILNADU  
GOVT OF DEPARTMENT OF REFORMS FORT ST. GEORGE,  
CHENNAI - 600 009

2 THE SPECIAL COMMISSIONER  
AND COMMISSIONER OF URBAN LAND CEILING  
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STRIKING OFF 3/88 MOUNT POONAMALEE HIGH  
ROAD RAMAURAM CHENNAI -89

6 THE SUBORDINATE JUDGE,  
POONAMALLEE.

7 THE SECTION OFFICER,  
VR SECTION, HIGH COURT, MADRAS.

C.C. to M/S.P.SUBBA REDDY Advocate on payment of necessary  
charges

The Government Advocate, High Court, Madras - 104.

Order  
in  
CMP Nos.900 AND 902 of 2018  
IN WA.NOs.394 AND 231 OF 2011  
Date :18/10/2019

From 26.2.2001 the Registry is issuing certified  
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VC (30/10/2019)