

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(NPD).No.660 of 2019
and
C.M.P.No.4379 of 2019

1.Sharfudeen
2.Beenu

... Petitioners

Vs

Edgah Mosque Charities
by Hon'y Secretary M. Mohammed Ayub,
No.9, Angappan Naicken Street,
George Town,
Chennai – 1.

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 07.01.2019 passed in E.A.No.SR.60962 of 2018 in E.P.No.1413 of 2012 in O.S.No.2388 of 2010 by the learned IX Assistant Judge, City Civil Court, Chennai, number and dispose the above E.A.SR.

For Petitioners : Mr.S. Pushpakaran

For Respondent : Mr.M. Jaseem Mohammed

ORDER

The above Civil Revision Petition has been filed challenging the dismissal of Section 47 petition filed by the revision petitioners herein. The revision petitioners are the tenants under the respondent Charities and an earlier suit O.S.No.2388 of 2010 was filed by the respondent for evicting the defendants on the ground that they have been in default of the rents, after terminating the lease by their letter dated 13.12.2009. The suit was decreed in favour of the respondent Charities which was taken on appeal in A.S.No.79 of 2012 on the file of the learned V Additional Judge, Chennai. The said appeal was also ended in dismissal, as against which, the Second Appeal S.A.No.637 of 2015 was filed by the defendants/revision petitioners herein. The said appeal was also dismissed, but however, taking into account the submissions of the appellants that they have been in possession of the property for a number of years, this Court granted further period of one year for handing over the possession and the defendants were directed to file an affidavit to that effect by order of this Court dated 04.01.2017. It is seen that an affidavit of undertaking has also been submitted by the revision petitioners along with the petition for

extending time wherein they had undertaken to vacate and hand over the possession on or before 07.01.2018.

2. After such an undertaking being given to this Court, the revision petitioners have sublet the above property to one D. Abdul Wahidh after receiving the lease amount of Rs.2 lakhs in the month of April 2017. The said act of the revision petitioner is a clear case of violating orders of this Hon'ble Court and after subletting the property when execution was laid in E.P.No.1413 of 2012 by the respondent Charities, the revision petitioner has taken out an application under Section 47 of the Code of Civil Procedure claiming to question the Decree on the ground that the person, who has initiated proceedings, did not have the *locus standi* to institute the proceedings. Such a plea has not been taken at any point of time when the suit was pending.

3. Be that as it may, having given a solemn undertaking that they should vacate and hand over the property on 07.01.2018, these revision petitioners have not only violated the undertaking given but also sublet the property to the third parties and the decree holder is facing an obstruction to the execution of his decree.

Considering the fact, this Civil Revision Petition is dismissed on condition that the revision petitioners shall pay a cost of Rs.50,000/- (Rupees fifty thousand only) to the respondent within a period of one week from date, failing which, further action will follow. No costs. Consequently, connected Miscellaneous Petition is closed.

26.02.2019

Index : Yes/No
Internet : Yes/No
mps

Note to office:
Issue order copy today itself.

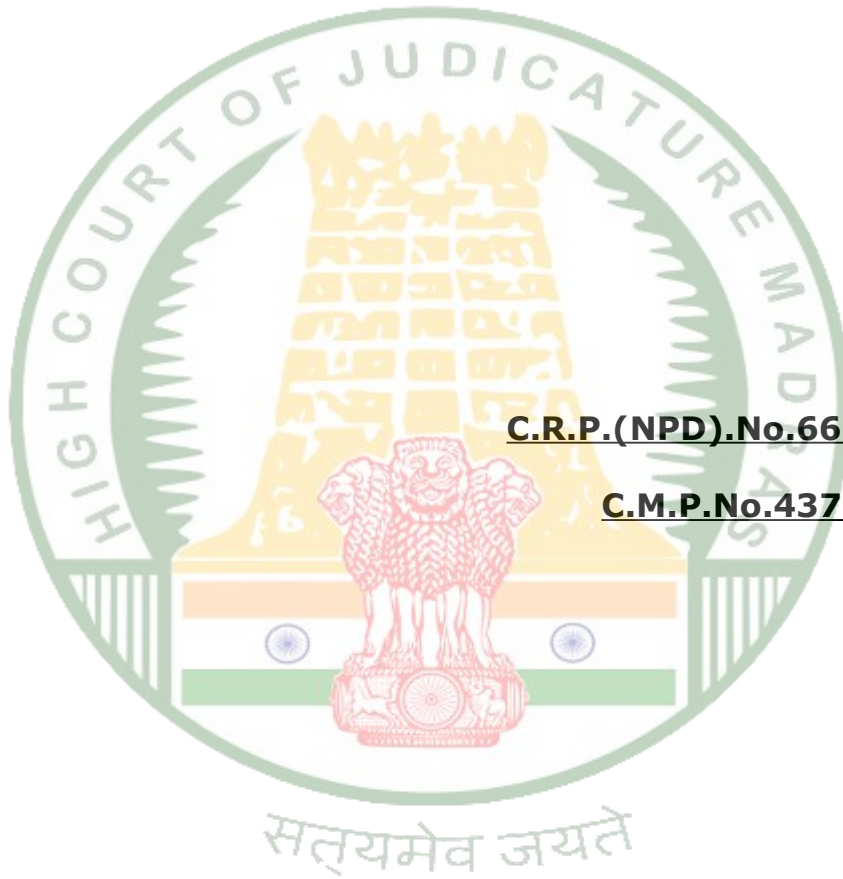
To
1.The IX Assistant Judge,
City Civil Court,
Chennai.

2.Sharfudeen,
S/o.Kanibaba,
3/5, Edgah Mosque Lane,
Mannady, George Town,
Chennai – 1.

3.Beenu,
W/o.Sharfudeen,
3/5, Edgah Mosque Lane,
Mannady, George Town,
Chennai – 1.

P.T. ASHA, J,

mps



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