

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2019

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(NPD).No.289 of 2013

1.C.N.Sundarraaj (Deceased)
2.Sagunthala
3.Maheswari
4.Anandathanataraj
5.Rajnarayan
6.Uma
7.Usha

...Petitioners/Decree holder

(Petitioners 2 to 7 brought on record as legal representatives of the deceased/1st petitioner vide order of this Court dated 21.03.2017, made in M.P.No.3 of 2014 in CRP.No.289 of 2013)

Versus

1.R.Krishnan
2.K.Seethalakshmi Ammal (Died)

...Respondents/Defendants

(First respondent has already been record in the CRP as legal heir of the deceased/second respondent vide order of this Court dated 03.10.2019, made in CRP.No.289 of 2013 and as per memo dated 16.09.2019, VSR 26900/2019 are recorded)

This Civil Revision Petition has been filed under Section 227 of the Constitution of India, to set aside the fair and decreetal order dated 07.09.2010 in E.P.No.135 of 2008 in O.S.No.1893 of 1996 on the file of the learned Principal District Munsif's Court, Coimbatore.

For Petitioners
For R1

: Mr.C.R.Prasanan
: Mr.S.Mukunth
for M/s.Sarvabhuman Associates

J U D G M E N T

The Civil Revision Petition has been filed against the order dated 07.09.2010, passed in E.P.No.135 of 2008 in O.S.No.1893 of 1996, by the learned Principal District Munsif's Court, Coimbatore.

2 The decree holder in O.S.No.1893 of 1996, before the learned District Munsif Court, Coimbatore, is the revision petitioner herein.

3 The revision petitioner/plaintiff has filed the above said suit in O.S.No.1893 of 1996, before the learned Principal District Munsif, Coimbatore, for permanent injunction restraining the defendants from any way interfering his peaceful possession and enjoyment of the suit property, morefully, descried in the schedule. The said suit was dismissed. Thereafter, the plaintiff has filed A.S.No.49 of 2001, before the II Additional Sub Court, Coimbatore, and the same was allowed on 07.11.2002 and after the decree, it is alleged by the plaintiff that in support of the injunction decree, the defendant in the suit proclaimed himself as a landlord and filed RCOP.No.229 of 1996, before the Rent Controller, Coimbatore, which according to the revision petitioner, he is a disobedient of the

Sub Court Decree, against two tenants, who are tenants in the suit property and hence, the plaintiff/decreed holder filed E.P.No.135 of 2008, under Order 21 Rule 11(2) of CPC and to comply with the decree under Order 21 Rule 22 of CPC, on the ground that since, the decree is a Sub Court decree for injunction, the decreed holder can execute the injunction decree either by attachment of property of the judgment debtor or to put the judgment debtor in civil prison and the said petition was dismissed on the ground that injunction decree cannot be executed.

4 After going through the order and also taking note of the rival contentions raised by the learned counsel for the petitioner and the respondent, as to whether there is a disobedience on the part of the defendant in filing RCOP, has not been taken note of by the Trial Court and the observation of the Trial Court, as stated supra, is against the ratio laid down by the Hon'ble Supreme Court of India in **2012 (4) SCC 307, - [Kanwar Singh Saini Vs.High Court of Delhi]**, wherein, the Hon'ble Apex Court has held that injunction decree granted by the Civil Court is executable and the manner of execution of said injunction decree has also been explained therein.

RMT.TEEKAA RAMAN., J.

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5 In the light of the procedure as formulated by the Hon'ble Apex Court, I am of the considered view that the matter needs reconsideration of the Trial on the factual circumstances and hence, the order passed in E.P.No.135 of 2018, by the learned Principal District Munsif, Coimbatore, dated 07.09.2010 is set aside and the matter is remitted back to the learned Principal District Munsif Court for reconsideration. The learned District Munsif, Coimbatore is directed to consider the matter, in the light of the above observation and to dispose the petition in accordance with law.

6 With these observations, the Civil Revision Petition stands allowed to the limited extent indicated above. No costs.

13.12.2019

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Speaking Order:Yes/No

To
The Principal District Munsif's Court,
Coimbatore.

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