

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2019

CORAM

THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP.(NPD)No.1464 of 2019

Malleswari Nayagam

...Petitioner

Vs

1. S. Meenakumari
2. SKS Arvind Raaj
3. S. Vivek
4. S. Priya

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to direct the X Assistant City Civil Court, Madras to deliver possession of the premises as per the order dated 05.03.2019 passed in E.P.No.3152 of 2008 in O.S.No.2684 of 1996 on the file of the X Assistant City Civil Court, Madras by breaking open the premises.

For Petitioner : Mr. Govind Chandrasekhar

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ORDER

The above Civil Revision Petition is filed praying for a direction to the X Assistant City Civil Court to ensure delivery of possession of the subject matter of EP.No.3152 of 2008 in view of

the orders passed by the Hon'ble Supreme Court in SLP No.9141 of 2011 dated 17.12.2014.

2. The case on hand is a classic example of an absolute abuse of process of law and an abuse which has been encouraged by Executing Court by entertaining one trivial application after another filed by judgment debtor who has been directed by none less than the Hon'ble Supreme Court to hand over the vacant possession of the property way back on 17.12.2014. The Hon'ble Supreme Court in its order in SLP.No.9141 of 2011 has held as follows:

An appropriate undertaking to this effect shall be filed by the petitioner before this Court within three weeks' time from today.

We direct the petitioner not to alienate or alter the nature of the suit property and not to create any third party rights. He shall continue to pay rentals to the respondent (s) positively on or before 5th of each month.

We clarify that if for any reason, the petitioner fails to comply with the order and directions issued by us, the respondent (s) is/are at liberty to take the assistance of the police authorities to get the possession of the premises in question from the petitioner."

3. It has been made very clear that if the petitioner did not

<http://www.judis.nic.in> comply with the orders/directions of the Apex Court then the decree

holder was at liberty to take police aid. It is seen that though the Executing Court has ordered delivery by 13.06.2019 and when the revision petitioner has filed an application in E.A.No. 2 of 2019 for break open and handing over the possession, the learned Judge has invited a counter from the revision petitioner which is totally contrary to the letter and spirit of the orders of the Hon'ble Supreme Court in the SLP. The learned Judge is directed to forthwith ensure that its order dated 05.03.2019 is given effect to with necessary police aid as well as orders for break open and shall refrain from entertaining any trivial application of the judgment debtor who has successfully stalled the decree holder from taking delivery of possession from the year 2014 onwards especially when all the defences raised by the respondent/tenant has been rejected and the order of eviction has attained finality.

4. The learned Executing Court shall report compliance of the implementation of the order of this Court on 17.06.2019. Accordingly, the Civil Revision Petition is disposed of.

16.04.2019

mrn

Index: Yes/No
 Internet: Yes/No
 Speaking order / Non-speaking order

P.T.ASHA, J.,

mrn

To,
The X Assistant City Civil Court,
Madras.



CRP.(NPD)No.1464 of 2019

WEB COPY

16.04.2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(NPD)No.1464 of 2019

Malleswari Nayagam

... Petitioner

Vs.

1.S.Meenakumari

2.SKS Arvind Raaj

3.S.Vivek

4.S.Priya

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to direct the X Assistant City Civil Court, Madras to deliver possession of the premises as per the order dated 05.03.2019 passed in E.P.No.3152 of 2008 in O.S.No.2684 of 1996 on the file of the X Assistant City Civil Court, Madras by breaking open the premises, if necessary, with police protection.

M. GOVINDARAJ, J.

bkn

ORDER

This petition is filed by the petitioner seeking to direct the X Assistant City Civil Court, Madras to deliver possession of the premises as per the order dated 05.03.2019 passed in E.P.No.3152 of 2008 in O.S.No.2684 of 1996 on the file of the X Assistant City Civil Court, Madras.

2. The learned counsel for the petitioner submits that the order of the Hon'ble Supreme Court has been complied with and that they have taken possession of the property. Hence nothing survives for further adjudication in this Civil Revision Petition.

3. Accordingly, the Civil Revision Petition is closed. No costs.

24.06.2019

C.R.P.(NPD)No.1464 of 2019



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