



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

CRP. (NPD) (MD) Nos.1457 and 1458 of 2012

CRP. (NPD) (MD)No.1457 of 2012

K.Sridhar Rao ... Petitioner/Respondent/Petitioner/Landlord

-vs-

R.Krishnamoorthy ... Respondent/Petitioner/Respondent/Tenant

PRAYER: This Petition is filed under Section 115 of C.P.C., praying to set aside the fair and decreetal order dated 28.02.2012 made in E.A.No.1090 of 2005 in E.P.No.681 of 2004 in R.C.O.P.No.67 of 1997 on the file of Principal District Munsif, Tiruchirapalli.

For Petitioner : Mr.P.Thiagarajan

For Respondent : Mr.D.Nallathambi

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For Petitioner : Mr.P.Thiagarajan

For Respondent : Mr.D.Nallathambi

C O M M O N O R D E R

The Civil Revision Petition in C.R.P.(NPD) (MD) No.1457 of 2012 has been filed to set aside the fair and decreetal order dated 28.02.2012 made in E.A.No.1090 of 2005 in E.P.No.681 of 2004 in R.C.O.P.No.67 of 1997 by the Principal District Munsif,



Tiruchirapalli, whereas C.R.P.(NPD) (MD) No.1458 of 2012 has been filed to set aside the fair and decreetal order dated 28.02.2012 made in E.P.No.681 of 2004 in R.C.O.P.No.67 of 1997 on the file of Principal District Munsif, Tiruchirapalli.

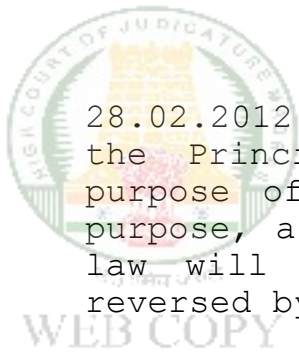
2. The Rent Control proceedings in R.C.O.P.No.67 of 1997 filed by the petitioner herein / Landlord stood dismissed by the Principal District Munsif, Tiruchirapalli, against which, R.C.A.No.11 of 1999 was filed before the Principal Sub-Court, Trichy. On 12.09.2003, the learned Principal Sub-Judge, Trichy had passed an order in favour of the landlord with a direction to the Respondent herein / Tenant to vacate the premises and hand over the vacant possession within two months. After the orders being passed by the learned Principal Sub-Judge, Trichy, an Execution Petition in E.P.No.681 of 2004 was filed by the Landlord before the Principal District Munsif, Tiruchirapalli.

3. It is the case of the Tenant, who is the Respondent herein that subsequently, he had filed E.A.No.1090 of 2005 before the Principal District Munsif, Tiruchirapalli, for a declaration to declare that the order passed in R.C.O.P.No.67 of 1997 is inexecutable on the ground that since the Tenant had been forcibly dispossessed by the landlord from the premises with the help of his associates, no order of delivery can be passed. The said E.A.No.1090 of 2005 was allowed by the Principal District Munsif, Tiruchirapalli, thereby holding that the order passed by the Principal Sub-Court, Trichy in R.C.A.No.11 of 1999 becomes inexecutable on account of the fact that the Tenant had already been removed from the premises. In view of the order passed in E.A.No.1090 of 2005, the Execution Petition in E.P.No.681 of 2004 was dismissed.

4. It is the grievance of the landlord that if the observation made by the Principal District Munsif, Trichy is allowed to subsist, it will create multiplicity of proceedings, as the order passed by a Higher Forum cannot be tested by an Inferior Court with regard to its validity and therefore, the order passed by the Principal District Munsif, Tiruchirapalli to that effect warrants interference by this Court.

5. Taking note of the submissions made on either side, this Court is of the view that the observation made by the Principal District Munsif, Tiruchirapalli cannot stand in the eye of law and such an observation cannot be made by the Principal District Munsif Court, Tiruchirapalli, as the said Court is not admittedly the Appellate Court to the Principal Sub-Court, Trichy. In other words, the Principal District Munsif, Tiruchirapalli would have rather held that consequent to the vacation of the Tenant from the premises, no order is required to be passed in the Execution Petition.

<https://hcservices.ecourts.gov.in/hcservices/> that as it may, a bare reading of the orders dated



28.02.2012 explicitly reveals the fact that the observation made by the Principal District Munsif, Tiruchirapalli is only for the purpose of closing the Execution Petition and not for any other purpose, as it is a settled law that no order passed by a Court of law will become inexecutable, unless or otherwise the same is reversed by a Superior Court.

7. Hence, in view of the fact that the Tenant had already vacated the premises, the observation made by the Principal District Munsif, Tiruchirapalli can be taken only for the purpose of closing the Execution Petition and it cannot be construed as an order passed by the Principal District Munsif, Tiruchirapalli, by usurping the powers of an Appellate Court.

8. With the above observation, these Civil Revision Petitions are closed. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

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To:

- 1.The Principal District Munsif,
Tiruchirapalli.
- 2.The Principal Subordinate Judge,
Tiruchirapalli.

Copy to:

The Record Keeper, (2 Copies)
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

Common Order made in
CRP. (NPD) (MD) Nos.1457 and 1458 of 2012

Dated: 15.11.2019

JMN(10.12.2019) 3P : 5C