



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :04.03.2019

CORAM:

THE HONOURABLE **MRS.JUSTICE S.RAMATHILAGAM**

C.R.P (NPD) (MD)No.584 of 2018

and

C.M.P. (MD)No.2590 of 2018

Meenachi Aachi : Petitioner /Respondent/Respondent
Vs.

P.Sakunthalai : Respondent/Petitioner/Petitioner

Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, as against the order dated 20.02.2018 passed in the execution petition in E.P.No.1 of 2014 in R.C.O.P.No.67 of 2010 on the file of the Additional District Munsif Court, Madurai Town.

For Petitioner :Mr.V.Nagendran
For Respondent :Mr.Ponniah

ORDER

The civil revision petition has been preferred against the order passed in E.P.No.1 of 2014 dated 20.02.2018 in R.C.O.P.No.67 of 2010.

2. E.P.No.1 of 2014 was filed by the petitioner/land lord for delivery of possession of the petition mentioned property.

3. Aggrieved against the said order, the petitioner herein has filed an application in E.A.No.56 of 2018 for vacant possession, the notice was also issued by the petitioner on 09.04.2014 to the respondent and the same was returned with an endorsement as "refused". Hence, once again the Executing Court ordered for delivery on 03.06.2014. The petitioner herein filed an application in E.A.No.108 of 2014 to set aside the *ex parte* order of delivery dated 08.03.2010 and the same was also allowed. Then the said E.P. was posted for filing counter. The petitioner herein has not filed his counter and once again the petitioner was set *ex-parte*



and delivery was ordered again in the year 2014 and subsequently, allowing the EA, one more opportunity was given to the petitioner herein for filing his counter. The petitioner has filed his counter and again delivery was ordered and the petitioner filed E.A.No.56 of 2018 to set aside the *ex parte* order of delivery.

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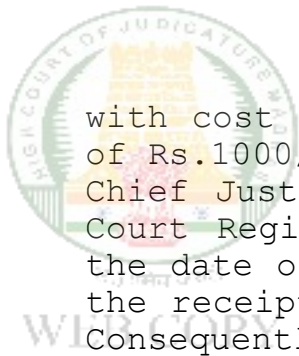
4. Again an enquiry was conducted and in the mean while, the petitioner herein filed a civil revision petition before this Court and obtained a stay till 04.06.2018. Subsequently the stay was extended till 27.07.2018. It is seen that though the Executing Court has directed to file a memo with regard to the status of stay, the petitioner herein has not filed any memo and the proceedings were also pending till 05.02.2019 and only on that basis, a conditional order came to be passed by this Court in C.R.P.No.584 of 2018 and the said order was also not complied with by the petitioner. Hence, the stay was not extended and the EP was proceeded once again. At the time of arguments, the petitioner has filed another petition for extension of stay and the same was also rejected. Since, the petitioner failed to proceed with the said petition, it was closed.

5. Thereafter, the case was reserved for orders. Now, the case stands in the stage of pronouncing order in the said E.P on 04.03.2019. At this juncture, the present petitioner has filed this petition to set aside the order passed in E.P.No.1 of 2014. whereas, this petitioner today represented that he filed change of vakalat. Today, it is brought to the notice of the forum by the respondent that as earlier on 14.02.2019 itself.

6. On perusal of entire records and also the evidences shown from the year 2014 till date, it is seen that the petitioner has not complied with any order inspite of sufficient opportunity given by the Rent Control Authority to contest the case by set asiding the *ex parte* order. The petitioner has not availed those opportunities and only at the time of delivery in the year 2014, he filed application for extention of interim stay in the absence of any order of interim stay as on that date. On subsequent vacation of stay, the petitioner filed another stay petition before the Executing Court and there was no appearance for the petitioner as well as the their counsel and once again the case was reserved for orders.

7. Considering the facts and circumstances of the case and also the fact that the Execution Court reserved the case for order for the second time after giving due opportunities to the petitioner, this Court is of the considered opinion that there is no merit in the present Civil Revision Petition and the same is liable to be dismissed as infructuous. The petitioner's grievance is not *bona fide* and genuineness.

8. Accordingly, this civil revision petition is dismissed



with cost of Rs.1000/-. The petitioner is directed to deposit a sum of Rs.1000/- (Rupees One Thousand Only) to the credit of the Hon'ble Chief Justice Relief Fund (payable in Accounts Section of the High Court Registry, Madurai Bench), within a period of two weeks from the date of receipt of a copy of this order and file a photocopy of the receipt along with a memo reporting compliance in the Registry. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

dss
To

1. The Additional District Munsif Court,
Madurai Town.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court.(2 COPIES)

COPY TO:
The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court, Madurai

+1CC TO MR.M.PONNIAH, ADVOCATE, SR.NO.51425
+1CC TO MR.V.NAGENDRAN, ADVOCATE, SR.NO.52048

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KK/SAR/15.10.2019/3P-7C/