



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY****CRP (NPD) (MD) No.2020 of 2017****and****CMP (MD) No.10113 of 2017**

WEB COPY

Logambal

... Petitioner

versus

K.P.Rengaraju

... Respondent

Civil Revision Petition filed under Section 115 of C.P.C. against the order dated 11.10.2017 in E.P.No.2 of 2010 in O.S.No.427 of 1981 on the file of the District Munsif Court, Lalgudi.

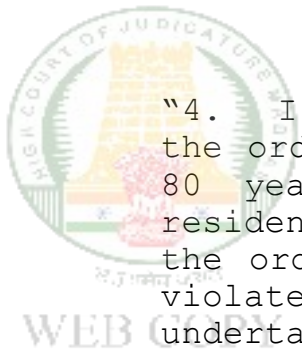
For Petitioner : M/s.K.Govindarajan
For Respondent : Mr.V.Maduraiveeran

ORDER

This Civil Revision Petition has been filed against the order dated 11.10.2017 in E.P.No.2 of 2010 in O.S.No.427 of 1981 on the file of the District Munsif Court, Lalgudi.

2. The respondent herein filed a suit in O.S.No.427 of 1981 for injunction restraining the respondent from interfering with the peaceful possession and enjoyment of the suit schedule property. The said suit was decreed in favour of the respondent. Thereafter, he filed execution petition in E.P.No.2 of 2010, stating that the revision petitioner/Judgment Debtor is violating the decree passed in O.S.No.427 of 1981 and therefore, he sought for intervention of the Court and to pass an order of arrest. After hearing both sides, the Court below has allowed E.P.No.2 of 2010. Aggrieved over the said order, the present Civil Revision petition has been filed.

3. The learned counsel appearing for the revision petitioner submitted that the revision petitioner is aged about 80 years old and since he finds it difficult to move out of his residential house, he has no intention to violate the decree passed by the Court below. The learned counsel further submitted that the Court below, while allowing E.P.No.2 of 2010, has not mentioned anything about the period of imprisonment. Since the revision petitioner has not violated the decree passed by the Court below, the question of filing the execution petition does not arise. It is further submitted that the revision petitioner has also filed an undertaking affidavit dated 13.11.2017, wherein, it is stated as follows:



"4. I respectfully submit that I have greatest regard for the order of the Court. I am senior citizen aged more than 80 years and I find it difficult to move out of my residential house and at no point of time, I have violated the orders of the Court and I do not have any intention to violate the decree passed in O.S.No.427 of 1981 and I will undertake to abide by the decree in O.S.No.427 of 1981 on the file of District Munsif, Lalgudi."

Hence, he prayed for setting aside the order of the Court below.

4. The learned counsel appearing for the respondent submitted that the said undertaking affidavit may be recorded.

5. Recording the undertaking affidavit filed by the revision petitioner, this Court is inclined to set aside the order of the Court below.

6. Accordingly, the Civil Revision Petition is allowed and the order dated 11.10.2017 passed in E.P.No.2 of 2010 in O.S.No.427 of 1981 by the District Munsif Court, Lalgudi, is hereby set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To

The District Munsif Court,
Lalgudi.

+1 CC to Mr.V. MADURAI VEERAN, Advocate (SR-97886[F]dated 13/11/2019)

+1 CC to Mr.K. GOVINDARAJAN, Advocate (SR-98048[F]dated 13/11/2019)

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13.11.2019

VB(27.11.2019) 2P 4C