

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(NPD).No.4110 of 2014

and

Mp.No.1 of 2014

A.Devamalai

... Petitioner

Versus

K.Rajendran

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 25.06.2013 made in E.P.No.1915 of 2013 in O.S.No.4156 of 2010 on the file of the IX Assistant Judge, City Civil Court, Chennai.

For petitioner : Mr.Rajesh Ramanathan

For Respondent : Mr.P.Valliappan

ORDER

सत्यमेव जयते

This Civil Revision petition has been filed against the order passed in EP.No.1915 of 2013 in O.S.No.4156 of 2010 on the file of the IX Assistant Judge, City Civil Court, Chennai, wherein the possession was ordered to be delivered.

2.The learned counsel for the petitioner/Judgment debtor would contend that in E.P.No.1915 of 2013 notice was ordered, however, even

before the petitioner could contest the Execution Petition, the hearing of the Execution Petition was advanced, in which, the orders have been passed for delivery of possession of the suit property.

3.Per contra, the learned counsel for the respondent/decreed holder would contend that pursuant to the order in E.A.No.4847 of 2017 in EP.No.1915 of 2013, he has taken possession of the suit property on 29.11.2013.

4.Heard both sides and perused the records.

5.The learned counsel for the respondent submits that the plaintiff has filed the suit in O.S.No.4156 of 2010, for ejectment. The suit was decreed and the execution petition has been filed, within a period of two years from the date of the decree. Initially notice was ordered to the petitioner/Judgment Debtor on 06.06.2013 and thereafter, advance hearing petition has been filed. After advancing the hearing, the execution petition was taken up and notice to the petitioner/Judgment Debtor was dispensed with in EA.No. 4847 of 2013 in EP No. 1915 of 2013 and on that day, E.A.No.4847 of 2013 was allowed and subsequent orders have been passed. As per proviso of Order XXI and Rule 22 of CPC., once the final decree had been passed on merits, there is no notice is required to be sent to the Judgment debtor with regard to the execution of the petition.

6.After going through the order passed in the suit O.S.No.4156 of 2010 in EP. No.1915 of 2013, the petitioner cannot challenge the execution proceedings when possession has already been handed over on 29.11.2013 to the decree holder/respondent herein in E.A.No.4847 of 2013. With respect to the dispute in the said E.P.No.1915 of 2013, a CMP.No.1311 of 2014 has also been filed in the Civil Miscellaneous Appeal in CMA.No.124 of 2014 before the III-Additional City Civil Court, Chennai, which was also disposed. Since, the same subject matter of the petition, before the III-Additional City Civil Court, Chennai in CMA.No.124 of 2014.

7.In so far as, this case is concerned notice has been issued and after following the procedure, the IX- Assistant City Civil Court, Chennai has executed the orders made in EP.No.1915 of 2013 by dispensing with the issuance of notice to the petitioner herein as per Order XXI Rule 22 of CPC. Hence, it does not call for any interference. Thus, the Civil Revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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04.02.2020

Index : yes/no
Internet : yes/no
Speaking/Non-Speaking order

klt
To

The IX Assistant Judge, City Civil Court, Chennai.

RMT.TEEKAA RAMAN,J.,

klr



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