



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.06.2020

CORAM :

THE HONOURABLE **MR. JUSTICE P. VELMURUGAN**

C.R.P (MD).No.499 of 2020

Michel Lazar Donald
through his power Agent
Mrs. Heloise Fernondo

...Petitioner/Plaintiff

vs.

Bonaventure Roche

...Respondent/Defendant

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to dispose the suit in O.S.No.05 of 2016 pending on the file of the learned II Additional District Judge, Tuticorin within a time fixed by this Court.

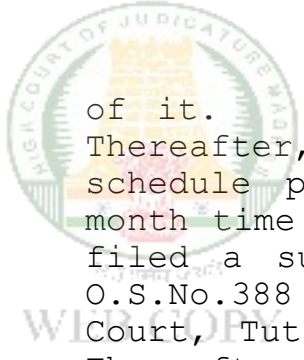
For Petitioner	: Mr.R.Venkatesan for M/S Right Law Associate
For Respondents	: Mr.G.Vanjinathan

O R D E R

This Civil Revision Petition has been filed seeking a direction to the learned II Additional District Judge, Tuticorin, to dispose of the suit in O.S.No.5 of 2016, pending on its file, within a time stipulated by this Court.

2. The revision petitioner herein is the plaintiff in O.S.No.5 of 2016 and the respondent herein is the defendant. The suit in O.S.No.5 of 2016 has been filed for declaration and recovery of possession.

3. According to the plaintiff/revision petitioner, he purchased the suit schedule property through a registered sale deed dated 24.04.2009 from the defendant for a valuable consideration of Rs.40,00,000/- and his power of attorney has paid the entire sale consideration without any dues. However, at the time of execution of sale deed, the respondent requested his power of attorney to permit him to continue his possession of the first floor of the suit schedule property up to 31.10.2010 for payment of a nominal rent. At his request, the Power of Attorney also surrendered the possession of the first floor of the suit schedule property to him on 29.05.2009. The respondent has also paid a rent of Rs.3,000/- per month, from April 2010 to October 2010. Thereafter, the respondent stopped to pay the rent to the Power of Attorney and he has also refused to pay even after several requests made by the petitioner. In the meantime, the power of attorney asked the respondent to vacate the possession of his suit schedule of the property and the respondent also agreed to surrender the possession



of it. But, he never surrendered the possession of the house. Thereafter, on 05.09.2015 the plaintiff requested to vacate the suit schedule property, for which, the respondent also requested one month time to vacate the premises. In the meantime, the respondent filed a suit for permanent injunction against the petitioner in O.S.No.388 of 2015 on the file of the Principal District Munsif Court, Tuticorin with false allegations and suppression of facts. Thereafter only, the revision petitioner filed the suit in O.S.No.5 of 2016 for declaration and recovery of possession.

4. Now, it is the grievance of the revision petitioner that since the said suit is pending before the trial Court, the respondent is taking undue advantage of the pendency of the suit proceedings. Further, the respondent is taking steps to alienate the suit schedule property. Therefore, the revision petitioner is before this Court for speedy disposal.

5. Learned counsel appearing for the respondent submits that both the suits are pending. Now, the revision petitioner has filed Tr.C.M.P.No.170 of 2019 and also filed an amendment petition before the lower Court, which are also pending.

6. In view of Covid-19 pandemic situation prevailing over the country, fixing the time limit to dispose of the suit in O.S.No.5 of 2016 is not possible. Further, two suits are pending before two various courts and now, Tr.C.M.P.No.170 of 2019 is also pending before the Principal District Court, Tuticorin. Hence, this Court is not inclined to give a direction to the trial Court.

7. Accordingly, the Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar (ADII)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmk

To

II Additional District Judge, Tuticorin.

C.R.P(MD).No.499 of 2020
15.06.2020

KB(24.06.2020) 2P 2C