



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2020

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

C.R.P. (PD) (MD)No.254 of 2019

and

C.M.P. (MD)No.1200 of 2019

WEB COPY

Salim : Petitioner/2nd Respondent/Tenant

.. Vs ..

Maragatham jesudasan(died)

1.Viji Dheivanayagam :1st Respondent/Petitioner/Landlord

K.M.Metha (Died)

2.Naaser

3.Apas

4.Mumthaj

5.Fathima Ajees

6.Oli

7.Muhamed Bebe

8.Muhamed Umar

9.Sabera Ammal

: Respondents 2 to 9/

Respondents 2 to 10/Tenants

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the impugned order passed in E.P.No.16 of 2017 in R.C.O.P.No.6 of 1997, dated 05.01.2019 on the file of the District Munsif-cum Judicial Magistrate Court, Kodaikanal.

For Petitioner

:Mrs.Sumathy

for Mr.P.M.Vishnuvarthanan

For Respondents

: No appearance

ORDER

This Civil Revision Petition is directed against the order in E.P.No.16 of 2017 in R.C.O.P.No.6 of 1997 on the file of the District Munsif-cum-Judicial Magistrate Court, Kodaikanal, dated 05.01.2019.

2.The revision petitioner is the tenant under the respondents. It is not in dispute that the landlords filed a eviction petition in R.C.O.P.No.06 of 1997 and obtained an order of eviction as against the revision petitioner, on 12.04.2002. The tenant challenged the order of eviction in R.C.A.No.11 of 2003 and the said appeal was dismissed on 25.04.2007. Thereafter, an execution petition in E.P.No.12 of 2012 was filed and it was dismissed for default on 24.02.2017. Thereafter, the present Execution Petition in E.P.No.16 of 2017 was filed. The said execution petition was



contested by the tenant mainly on the ground of limitation. Since the RCOP was allowed on 12.04.2002, it was contended before the trial Court that the execution petition is barred by limitation, as the petition was filed in 2017, after a period of 15 years from the date of order of eviction. Rejecting the objection of the tenant, the lower Court allowed the execution petition after holding that the landlords are entitled to file an application within 12 years from the date of order in R.C.A.No.11 of 2003, dated 25.04.2007. Aggrieved by the same, the present revision petition is filed.

3.This Court finds that the order of eviction was confirmed by the appellate authority only on 25.04.2007. Going by the records, this Court is also convinced that the limitation starts only from the date of disposal of R.C.A.No.11 of 2003, ie., on 25.04.2007. Since the Execution Petition filed within 12 years from 25.04.2007, the question of limitation has to be answered in favour of the landlords. This Court, therefore, does not find any error in the order of lower Court allowing the execution petition and the order of lower Court is perfectly in order. Hence, this Civil Revision Petition is dismissed and the order passed in E.P.No.16 of 2017 in R.C.O.P.No.6 of 1997 on the file of the District Munsif-cum-Judicial Magistrate Court, Kodaikanal, dated 05.01.2019, is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

The District Munsif-cum-Judicial Magistrate,
Kodaikanal.

C.R.P. (PD) (MD)No.254 of 2019

20.08.2020

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