



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2020

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (MD) .No.260 of 2019(NPD)

and

C.M.P. (MD) .No.1298 of 2019

WEB COPY

Tmt.S.Radha

.. Petitioner/Respondent/Respondent/Tenant

Vs

Governing Council of the American College

Represented by

The Principal & Secretary,

Dr.M.Davamani Christoher ... Respondent/Petitioner/Petitioner/
Landlord

Prayer: Civil Revision Petition filed under Section 115 of the Code of the Civil Procedure, to set aside the fair and executable order of delivery dated 27.11.2018 passed in E.P.No.297 of 2018 in R.C.O.P.No.207 of 2014, on the file of the Additional District Munsif Court, Madurai Town and to direct redelivery of the petition mentioned property to the petitioner herein.

For Petitioner : Mr.N.Rahamadulla
For Respondent : M/s.Ajmal Associates
for Mr.Mahaboob Athiff

O R D E R

This Civil Revision Petition is filed against the order passed by the Additional District Munsif, Madurai Town, in E.P.No.297 of 2018 in R.C.O.P.No.207 of 2014.

2.The revision petitioner is the tenant and the respondent herein filed eviction petition in R.C.O.P.No.207 of 2014. The respondent herein, after getting an order of eviction in R.C.O.P.No.207 of 2014, has filed an execution petition in E.P.No.297 of 2018. In the execution petition, delivery was ordered and a report was filed on 12.12.2018. The acknowledgment for accepting the delivery made by the Principle Secretary, American College was on 11.12.2018. Thereafter, the present Civil Revision Petition has been filed by the tenant.

3.The learned counsel appearing for the petitioner submitted that the tenant may be given time to vacate two shops and that he undertakes to pay the rent regularly for the said two shops. When delivery is effected, there is no question for granting time to vacate the premises. It is not in dispute that the order of eviction passed in R.C.O.P.No.207 of 2014 has become final. It is to be seen that the tenant has not paid the rents for so many months. Therefore, during the pendency of the petition for



eviction, a petition in I.A.No.226 of 2016 was filed under Section 11(4) of the Tamil Nadu Lease and Rent Control Act, in which, a conditional order was passed. However, the tenant has not deposited the rent in compliance of the direction of the lower Court. Due to non-compliance, the petition filed under Section 11(4) of the said Act, was allowed. When the tenant has committed not only wilful default, but also failed to pay the rent, despite conditional orders under Section 11(4) of the said Act, this Court is not inclined to show any indulgence. Though the order of eviction was passed in the year 2018, the landlord was compelled to wait.

4.Counsel for the respondent submitted that the tenant has not deposited any rent so far. This shows the conduct of the tenant and the real intention behind the civil revision petition. Every tenant is expected to pay rent regularly without any demand. Despite an eviction petition is filed on the ground of wilful default, the petitioner has not paid the rent even after an order of eviction was passed. Only ground raised is that no notice was issued to the tenant, before ordering delivery. The order of eviction was not challenged and no application for stay was filed. It is not as if the tenant did not know about the proceedings against him. The tenant was in possession of four shops and delivery was effected in the year 2018. After two years, the tenant cannot be allowed to come with the prayer that he should be given possession for some period upon payment of regular rent. The learned counsel appearing for the respondent is not agreeing.

5.Having regard to the conduct of the revision petitioner, this Civil Revision Petition is dismissed, as devoid of any merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

NS

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purpose, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Additional District Munsif,
Madurai Town.

2.The Section Officer, VR Section-2 copies
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-15484[F] dated
01/09/2020)

C.R.P. (MD) .No.260 of 2019 (NPD)

31.08.2020

KM (21.09.2020) 3P 5C