



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2020

CORAM

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

C.R.P. (PD) (MD)No.659 of 2019

and

C.M.P. (MD)No.3498 of 2019

D.Sundaramoorthy : Petitioner/Defendant

.. Vs ..

M.Selladurai : Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records relating to the judgment and decree, dated 14.11.2016 passed in O.S.No.1746 of 2011 on the file of the I Additional District Munsif Court, Tiruchirapalli and to set aside the same.

For Petitioner :Mr.R.Sundar Srinivasan

For Respondent :Mr.S.Vinayak
for Mr.P.Jayaprakash Narayan

ORDER

This Civil Revision Petition is directed against the judgment and decree in O.S.No.1746 of 2011 on the file of the I Additional District Munsif Court, Tiruchirapalli, dated 14.11.2016.

2.Heard the learned Counsel appearing for the revision petitioner and the learned Counsel for the respondent.

3.Brief facts that are necessary for the disposal of this revision petition are as follows:

4.The revision petitioner is the defendant in the suit in O.S.No.1746 of 2011 on the file of the I Additional District Munsif Court, Tiruchirapalli. The respondent herein, as plaintiff, filed the said suit to direct the revision petitioner to hand over possession of the demised property within a specified time under Section 6 of the Specific Relief Act 1963. The respondent herein is the tenant in respect of a residential premises within the Tiruchirapalli Corporation limit. There was some dispute arose between the respondent and the previous landlord. Hence, the respondent was forced to file a suit in O.S.No.05 of 2009 on the



file of the District Munsif Court, Tiruchirapalli for permanent injunction not to dispossess the respondent, except by due process of law.

5. It was admitted that during the pendency of the suit for injunction, the original owners sold the property to the revision petitioner. Stating that the revision petitioner indulged in forcible dispossession, the respondent withdrew the earlier suit and filed a fresh suit against the revision petitioner in O.S.No.56 of 2010 for injunction not to dispossess the respondent except by due process of law. Pending suit, the revision petitioner filed an eviction petition in R.C.O.P.No.108 of 2010 for eviction. It is the specific case of the respondent that the revision petitioner resorted to crooked methods to evict the respondent. The further case of the respondent is that the revision petitioner unlawfully cut the water connection to the demised premises, which forced the tenant/respondent to file a petition to restore amenity in R.C.O.P.No.139 of 2010. Again, it was stated that the revision petitioner resorted to cut the electricity connection to compel the respondent to vacate the suit property. Hence, the respondent filed another petition in R.C.O.P.No.115 of 2011 for restoration of electricity service connection.

6. By narrating the conduct of the revision petitioner, the respondent stated in the plaint that the revision petitioner, who is a Constable in Armed Force, hatched a conspiracy and foisted a frivolous case against the respondent and his wife in Cr.No.957 of 2011 and took them into custody. It is the further case of the respondent in the plaint that the revision petitioner forcibly broke open the lock of house, in which the respondent was residing and thus, the respondent was evicted, when he was in judicial custody. Since the respondent was forcibly evicted on 24.07.2011 by the revision petitioner with the help of his men, the respondent has stated in the plaint that he was constrained to file the present suit to hand over possession of the demised property, under Section 6 of the Specific Relief Act.

7. The suit was contested by the revision petitioner on the ground that the tenants including the respondent herein agreed to vacate the premises, after the revision petitioner filed Rent Control Proceedings against the respondent and another tenant for eviction. Without giving relevant dates and events, the written statement was filed by the revision petitioner showing that the revision petitioner has something to hide and the statement of facts as revealed from the written statement indicate the determination of the revision petitioner to suppress material facts.

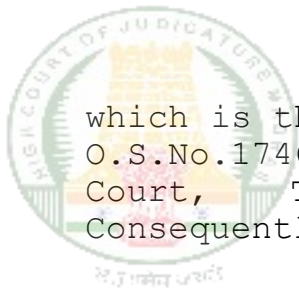


8.The learned I Additional District Munsif, Tiruchirapalli, after framing necessary and proper issues, found that the respondent was dispossessed forcibly on 24.07.2011, and decreed the suit as prayed for. One of the main contentions of the revision petitioner that the suit is barred by limitation was also rejected by the trial Court by holding that the suit was instituted on 21.12.2011 which is within six months from the date of forcible dispossession. After recording the dates and events, the trial Court came to the conclusion that the contention of the revision petitioner that respondent/tenant vacated the premises is unbelievable, as the respondent could not have vacated the property, while he was in judicial custody. The case of respondent was held to be proved by proper appreciation of evidence. Aggrieved by the order of learned I Additional District Munsif, Tiruchirapalli, the present revision petition is filed.

9.The revision petitioner has filed R.C.O.P.No.109 of 2010 against one of the tenants and also filed R.C.O.P.No.108 of 2010 against the respondent. It is admitted that both the petitions were filed simultaneously. When R.C.O.P.No.109 of 2010 came up for hearing, the revision petitioner filed a memo reporting that the tenant has vacated the property and sought permission not to press the petition. Hence, the petition in R.C.O.P.No.109 of 2010 was dismissed as not pressed. It is admitted that no such memo was filed by the revision petitioner in R.C.O.P.No.108 of 2010 and the said petition was dismissed for default long after the disposal of R.C.O.P.No.109 of 2010. Hence, the contention that the tenant had voluntarily handed over possession after the filing of Rent Control Original Petition cannot be accepted by believing the self serving evidence of the revision petitioner.

10.The revision petitioner/defendant has not produced any independent witness or corroborating evidence to prove his case. The narration of events as seen from the evidence of plaintiff indicates that the revision petitioner, by fraudulent means, has evicted the tenant and set up a case, as if the respondent voluntarily handed over possession. The revision petitioner hatched a plan to secure the property by abuse of process of law.

11.Having regard to the conduct of the revision petitioner as reflected from the sequence of events, this Court is of the clear view that the revision petitioner has done something mischievously to get the property. Having regard to the conduct of the revision petitioner, this Court is inclined to impose heavy cost on the revision petitioner. Accordingly, this Civil Revision Petition is dismissed with the cost of Rs.10,000/- payable to the respondent within a period of eight weeks from the date of receipt of a copy of this order. In case, the amount is not paid, while executing the decree for possession, the respondent is permitted to enforce the



which is the subject matter of the suit. The judgment and decree in O.S.No.1746 of 2011 on the file of the I Additional District Munsif Court, Tiruchirapalli, dated 14.11.2016, is confirmed. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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Sub Assistant Registrar (CS)

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To

1.The I Additional District Munsif, Tiruchirapalli .

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court, Madurai.(2 Copies)

+1 CC to M/s.R.SUNDAR SRINIVASAN, Advocate (SR-17042[F] dated 16/09/2020)

+1 CC to M/s.JAYAPRAKASH NARAYANAN.P, Advocate (SR-17043[F] dated 16/09/2020)

C.R.P. (NPD) (MD) No.659 of 2019

16.09.2020

NR (01.10.2020) 4P 6C