



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (NPD) (MD) No. 912 of 2020

&CMP (MD) .No.5978 of 2020

WEB COPY

G.Rajendran

... Revision Petitioner/ Petitioner/
3rd party Obstructor

Vs.

1.V.Muthulakshmi

2.A.Baluchamy

3.B.Vasantha

... Respondents/Respondents/
Decree Holder/Judgment Debtor

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and executable order dated 09.10.2020 passed in unnumbered E.A.No. /2020 in E.P.No.13/2019 in O.S.No.98 of 2008 by the 1st Additional District Judge, Madurai.

For Petitioner : Mr.S.Mahesh Babu

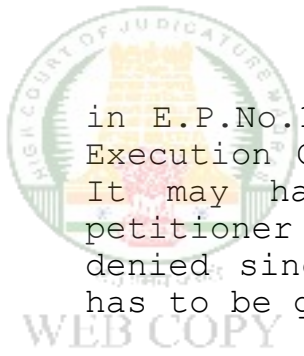
ORDER

The present petition is filed by the revision petitioner challenging an order of the Execution Court(I Additional District Judge, Madurai) in returning the unnumbered E.A.No. /2020 in E.P.No.13/2019 in O.S.No.98 of 2008, which he had filed under Order 21 Rule 97 of CPC.

2.The learned counsel for the revision petitioner submits that the revision petitioner is admittedly in possession of the property based on an agreement entered into between the JD and the revision petitioner. However, this was returned without even being taken on file, which caused considerable prejudice to the revision petitioner. He added that the Execution Court has almost unilaterally decided the character of the document in question without providing opportunity for the revision petitioner to explain that he has independent title.

3.The learned counsel for the revision petitioner also cited a Judgment of this Court reported in 2018 1 MWN(Civil) 181.

4.This Court carefully went through the papers and also the Authority and finds that there is prima facie merit in this case, and therefore, chooses to interfere with the order of the Execution Court and sets aside the order passed in unnumbered E.A.No. /2020



in E.P.No.13/2019 in O.S.No.98 of 2008. This Court now directs the Execution Court to number this application and hear the petitioner. It may have to be mentioned that even assuming the revision petitioner is a lessee of the property, yet, the delivery cannot be denied since symbolic delivery of the property subject to tenancy has to be given as per law.

5.In the result, the Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Tsg-2

To

1.The 1st Additional District Court, Madurai.

2.The Section Officer

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

+1 CC to M/s.S. MAHESH BABU, Advocate (SR-22604[F] dated 24/11/2020

C.R.P. (NPD) (MD)No.912 of 2020

24.11.2020

NA (CO)

NR (26/11/2020) 2P : 5C