



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (PD) (MD)No.153 of 2018

and

C.M.P. (MD)No.676 of 2018

WEB COPY

Balasubramanian ... Petitioner/Petitioner/Respondent
/Respondent
vs.

Lakshmanan ... Respondent/Respondent/Petitioner
/Petitioner

PRAYER: This Civil Revision Petition is filed under Section 227 of the Constitution of India, to set aside the fair and decreetal order dated 06.11.2017, passed in E.A.No.13 of 2017, in E.P.No.02 of 2016, in R.C.O.P.No.02 of 2010 passed by the District Munsif Court, Kovilpatti.

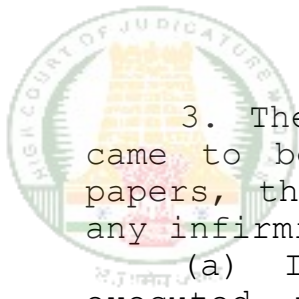
For Petitioner : Mr.F.X.Eugine
For Respondent : Mr.Ponsenthilkumaran

ORDER

The revision petition is filed challenging an order passed in E.A.No.13 of 2017 in E.P.2 of 2016 in R.C.O.P.No.2 of 2010. The said petition has been filed for eviction. The revision petitioner herein on certain statutory grounds available to the landlord. Subsequently, the landlord has laid E.P.No.2 of 2016 for delivery of the property, in which the revision petitioner has filed E.A.No.13 of 2017 under Section 47 of the Civil Procedure Code.

2.1. It is the contention of the revision petitioner / tenant in R.C.O.P.No.2 of 2010, that originally he was the owner of the premises, that the landlord / respondent herein has obtained a sale deed from him on 29.01.2007, that the said sale deed was obtained under considerable duress. It was also brought to the notice of the Court that the revision petitioner had earlier filed O.S.No.111 of 2008 for bare injunction that he shall not be dispossessed except by due process of law. It is only thereafter, R.C.O.P.No.2 of 2010 was laid.

2.2. Be that at it may, the respondent /landlord has laid a suit in O.S.No.31 of 2016 for recovery of the arrears of rent payable by the petitioner herein. In that suit, the revision petitioner as defendant has filed an additional written statement raising counter claim seeking to cancel the sale deed, under which the respondent claims title.



3. The Execution Application filed by the revision petitioner came to be dismissed by the impugned order and on perusing the papers, this Court finds that the said order does not suffer from any infirmity or illegality for the following reason:-

(a) If the sale deed, which the revision petitioner had executed in favour of the respondent herein on 29.01.2007 is vitiated by any fraud, coercion or any other grounds that vitiate the contract, he ought to have filed a suit either for cancellation of the sale deed or for declaration that the sale deed is void on the grounds available to him under law. That was not done till date and today, the suit is terribly barred by time and there is no avenue for him to file a suit for the purpose. It may also be mentioned that the respondent as a tenant does not appear to have taken a plea under Section 10 (2)(i) of the Tamil Nadu Buildings Lease and Rent Control Act, 1960 challenging the title of his landlord at the earliest point of time.

(b) It is apparent that by filing E.A.No.13 of 2017, the revision petitioner is only keen to reopen the decree of eviction, which an execution cannot do under the circumstances as per law.

4. This Court does not find any merit in this petition. Accordingly, this Civil Revision Petition is dismissed. However, if the revision petitioner succeeds to obtain a decree in his counter claim, then it necessarily goes without any need for emphasis that he would be entitled for the property to be delivered back to him under Section 144 of the Civil Procedure Code based on the decree in the counter claim.

5. The learned counsel for the petitioner prays that atleast some time may be given to the parties to vacate the premises since it is Covid times. The learned counsel for the respondent also agrees to the same.

6. Therefore, the petitioner is now required to deliver the vacant possession of the land on or before 26.01.2021, wherein after, the Execution may pass such necessary orders forthwith without any further loss of delay. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

ta



To

1.The District Munsif, Kovilpatti.

+1 CC to Mr.S.PON SENTHIL KUMARAN, Advocate SR-23791.

**C.R.P. (MD) No.153 of 2018
09.12.2020**

NS (CO)
CS (30.12.2020) 3P 3C