

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 09.02.2021

CORAM:

THE HONOURABLE MRS. JUSTICE **V.BHAVANI SUBBAROYAN**

C.R.P. (NPD) No.183 of 2021

A.Sekar

...Petitioner

Vs

s.P.Vijayalakshmi

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 04.12.2020 passed in E.A.No.49 of 2019 in E.P.No.108 of 2019 in R.C.O.P.No.1263 of 2014 by the XI Court of Small Causes, Chennai.

For Petitioner: Mr.M.Ramamoorthi

ORDER

This Civil Revision Petition is filed against the order dated 04.12.2020 made in E.A.No.49 of 2019 in E.P.No.108 of 2019 in R.C.O.P.No.1263 of 2014 passed by the learned Judge, XI Small Causes Court, Chennai.

2. The petitioner herein is the judgment debtor, against whom an order of eviction dated 21.08.2015 was passed in R.C.O.P.No.1263 of 2014, which was also confirmed by this Court in C.R.P.No.2631 of 2018 vide order dated 24.10.2018. Pursuant to the eviction, the Court below passed an order of delivery of the vacant possession of the premises on 21.01.2019. Pursuant to the same, the bailiff has executed the warrant on 21.03.2019 and has handed over the vacant possession to the respondent/decree holder and at the time of delivery, the bailiff had noted some articles in the premises and the same were listed out as articles 1 to 36 and the same were handed over to the respondent/decree holder, after obtaining sufficient security to produce the same as and when required by the Court. Since the petitioner judgment debtor has not come forward to take back all the articles from the premises, the petitioner has come forward with an application before the Court below seeking direction to the petitioner/judgment debtor to remove and to take back articles 1 to 36 mentioned in the bailiff report within a time frame, failing which, to sell the same in public auction and depose the said proceedings before the credit of R.C.O.P.1263 of 2014.

3. The respondent herein has filed counter denying all the averments made in the application stating that there were more belongings with the bailiff mentioned in his report value of Rs.2,00,000/- and they were kept in safe custody and some of the articles were missing and a delivery order was effected without giving any notice to him. It is also stated that the bailiff report was silent about the missing articles. Therefore, the petitioner's prayer has to be dismissed and the petitioner shall be directed to furnish all the articles mentioned in the counter.

4. It is not in dispute that the eviction order against the petitioner has been confirmed and the delivery was also ordered. However, it appears that the petitioner judgment debtor has not evinced any interest to take back his belongings, which were lying in the premises and despite the bailiff executing the warrant the petitioner has not appeared and raised any objections as regards, the report of the bailiff wherein he has mentioned the articles 1 to 36. The petitioner has just mentioned in his counter that there were more articles and important documents and he has not shown any evidence to prove the same. At the same time, it is to be noted that the petitioner judgment debtor has not denied the list of

articles 1 to 36 mentioned in the bailiff report. Therefore, when once the eviction was confirmed, it is the bound and duty of the petitioner judgment debtor to vacate the premises by removing all his belongings, but, admittedly, he had not done so. In such circumstances, the Court below has rightly passed the order directing the petitioner/judgment debtor to take back the articles 1 to 36 mentioned in the bailiff report within a period of 60 days from the date of receipt of copy of the order, failing which the articles would be kept in public auction for sale and after the sale proceedings, the entire amount will be deposited to the credit of R.C.O.P.No.1263 of 2014. This Court does not find any infirmity in the said order in order to interfere with the same.

5. Accordingly, this Civil Revision Petition stands dismissed. No costs.

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Index: Yes/No
Speaking order/Non-Speaking Order
sbn

To

The learned XI Judge,
XI Court of Small Causes, Chennai.



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V.BHAVANI SUBBAROYAN, J.

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