

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.4764 of 2015

and M.P.No.1 of 2015

Ravi @ Subramanian

... Petitioner/3rd party objector

Vs.

1.Louis Sinnaya Arokiasamy

... 1st Respondent/Decree Holder/Plaintiff

2.Shanmugasamy Chettiar

3.P.Anandabaskaran

... Respondents 2 & 3/Judgement Debtors/Defendants

PRAYER : The Civil Revision Petition filed under Article 227 of the Constitution of India against the order of the learned Additional Sub Judge, Puducherry, dated 23.02.2015 in Unnumbered E.A. of 2015 in E.P.No.35 of 2012 in O.S.No.40 of 2006.

For Petitioner : Mr.T.Saikrishnan

For Respondent : Mr.C.Vigneswaran [R1]

R2 – given up

Mr.B.Lakshminarasimhan [R3]

(No Appearance)

ORDER

(Heard through video conferencing)

This Civil Revision Petition has been filed praying to set aside the order dated 23.02.2015 in Unnumbered E.A. of 2015 in E.P.No.35 of 2012 in O.S.No.40 of 2006 passed by the learned Additional Sub Judge, Puducherry.

2. The arguments of the learned counsels for the petitioner and the first

respondent heard elaborately.

3. The learned counsel for the revision petitioner submitted that the objector was the tenant under the brother of the plaintiff and he has given an Obstruction Petition under Order 21 Rule 97 during the execution proceedings and that the Executing Court has rejected the petition at the threshold itself. It is further submitted that if such kind of orders are passed in petition filed under Order 21 Rule 97, without taking them for adjudication, it will end up in a situation where even the parties to a colluding suit could easily defeat the interest of a genuine tenant in the suit premises and hence this revision petition should be allowed.

4. On the other hand, the learned counsel for the first respondent submitted that this civil revision petitioner is a person set up by the judgement debtor himself and he has alleged the same facts which was raised by the 2nd defendant in his written statement filed in the suit.

5. Though the written statement filed by 2nd defendant is not available on record, the Court could find it from the conduct of the revision petitioner from the pleadings he has made in his affidavit supporting the Obstruction Petition. He has filed a detailed affidavit in which he has challenged the very ownership of the

decree holder and stated that the decree holder has sold away the property. The details of the title and all other disputes revolving any rented property cannot be in the knowledge of a tenant, so accurately. From the manner in which the contents of the affidavit is given, it can be easily inferred that the civil revision petitioner/3rd party objector is the person who is interested in the judgement debtor and he has filed this Obstruction Petition only on the advise of the judgement debtor.

6. It is true that a genuinely affected person should be protected through the provisions of law. At the same time, the Court has got a duty to execute its own decrees and protect them from getting protracted by those who collude with the judgement debtors. The Obstruction Petition has been filed in the year 2004 and this Civil Revision petition has been filed in the year 2015 by challenging the orders of the Executing Court passed in unnumbered E.A. of 2015 in E.P.No.35 of 2012.

7. When it was clarified by the Court whether the tenant made use of this long time available to him and accommodated himself elsewhere, the learned counsel for the revision petitioner clarified that he is still continuing his possession in the suit premises itself. So the intention of the civil revision petitioner becomes clear that he is just helping the judgement debtor for misusing the provisions of law

and to delay the execution of the decree of the Court. The Executing Court has got powers to pass any appropriate orders upon the receipt of such petition and the rejection of the petition is also an order passed by the Executing Court after due consideration.

8. From the discussions made above, I do not find any merits in the Civil Revision Petition filed by the petitioner and hence this Civil Revision Petition stands dismissed. No costs. Connected miscellaneous petition in M.P.No.1 of 2015 is closed.

19.04.2021

Speaking/Non-speaking
Index : Yes/No
Internet : Yes/No

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To

- 1.The Additional Sub Judge,
Puducherry.
- 2.The Section Officer,
V.R.Section,
High Court, Madras.

C.R.P.(NPD).No.4764 of 2015