

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2021

CORAM

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN

C.M.P. NO. 6514 of 2020
in Tr.C.M.P. No. 942 of 2019.

V.K. Kumaresan

...Petitioner/Tenant

Vs.

1.P. Jayaseelan

...Respondent/Landlord

2.Bar Council of Tamil Nadu and Puducherry,
Chennai

Rep. By Mr.C.K. Chandrasekar

..Respondent

Prayer: This Petition is filed under order 9 Rule 10 & 13 r/w 151 of Civil Procedure Code, to set aside the exparte order passed in Tr.C.M.P. No. 942 of 2019 and C.M.P. No. 25642 of 2019 dated 19.02.2020 passed by this Court for non appearance of the counsel for Petitioner on 19.02.2020 and disposed on merits to secure the ends of justice.

For Petitioner : Mr.R. Sankarasubbu

For Respondent : M/s. Venkatesh Mahadevan for R1
Mr.C.K. Chandrasekar
for Bar Council

ORDER

When the matter is taken up for hearing today, learned counsel for the Petitioner has submitted that the Petitioner has already vacated the premises and the vacant possession has been handed over to the land lord. The said submission has been affirmed by the learned counsel for the Respondent, stating that the possession has been taken with the help of Police.

2. It is appropriate to recollect that this Court heard Tr.C.M.P. No. 942 of 2019 in detail on several occasions and after conclusion of the argument on either side, posted it for pronouncing orders on 19.02.2020. On the said date, there was no appearance on behalf of the Petitioner, which forced this Court to mark " No Appearance" for the Petitioner in the cause title of the order dated 19.02.2020. It does not mean that the Petitioner was not at all heard.

3. Tr.C.M.P.No. 942 of 2019 was disposed of by this Court as early as on 19.02.2020, with a direction to the Petitioner herein/Tenant, who is an Advocate, to vacate the premises within two weeks. It is very unfortunate that the Petitioner took one long year to comply with the said order. However, this Court is of the view that the approach adopted by the Petitioner/Advocate/Tenant in a clandestine manner to defeat the orders of this Court, is clear abuse of process of the Court. Under the pretext that a Review Application has been filed (may be true), this matter (Miscellaneous Petition) was dragged on by the Petitioner to deceive the Court and the landlord, as the Petitioner/Tenant has not furnished either the SR number of the Review Application or the date on which the said Review Application was purported to have been filed to review the order in Tr.CMP., till the date of signing this order.

4. Though it may be the duty of the Lawyer, viz., Sankarasubbu, learned counsel for the petitioner in this Petition, to protect the dishonest tenant, namely, V.K.Kumaresan, Advocate, the way in which the matter was dragged on by the learned counsel for the petitioner in this petition, is not appreciated and is deprecated. This Court never expected Sankarasubbu, learned counsel for the petitioner in this petition to have protected the person like the petitioner herein, knowing well about his conduct on going through the order in the Tr.CMP. The petitioner/Tenant/Advocate, after knowing the mind of this Court, had also written a letter dated 17.02.2020 to the Hon'ble Chief Justice, apart from addressing it to the Registrar of this Court, thereby he attempted to adopt the tactics of forum shopping, which is purely an act of unbecoming of a lawyer, undermining the profession. By the time the letter could reach my hand, I had already pronounced the order on 19.02.2020 in Tr.CMP.

5. However, in view of the subsequent development and also considering the fact that the petitioner/tenant has vacated the premises, which has been duly affirmed by the learned counsel for the respondent, this Court is of the view that no further order is required to be passed in this petition, except the following.

6. The 2nd respondent/Bar Council shall take action against the petitioner/Advocate and proceed further for the misconduct on the complaint. In case of issuance of any notice to the petitioner herein by the Bar Council, the enquiry shall be conducted on a day-to-day basis without adjourning the matter beyond three days at any point of time and bring the issue to a logical conclusion. It is also open to the 1st respondent herein to proceed against the petitioner in accordance with law.

7. It is very saddening to note that it is a shame on the part of an Advocate to refuse to vacate the premises, when a landlord requires it and the Advocates are referred to as gentleman in the preamble to Chapter-II of the Bar Council of India Rules under Section 49(1)(c) of the Act read with the proviso thereto. In the present case on hand, the petitioner/Tenant has proved himself to be a wicked, dishonest and unprincipled person.

8. It is directed that the matter shall be handled only by Mr.C.K.Chandrasekar, learned counsel for Bar Council/ R2 and he shall not be displaced by anyone from the Panel till a final decision is taken on the enquiry against the Petitioner. As the time limit is fixed under the Advocates Act, the Bar Council must ensure that the papers are not misplaced, so as to later contend that the time has already been over and no action can be taken against the Petitioner herein.

9. Registry is directed to send a copy of this order to MHAA, MBA and Women Lawyer's Association to inform the members of the respective Association that they should not defend a dishonest Tenant, who happens to be a deceitful Advocate, like the petitioner herein, who is not a gentleman, in order to safeguard the reputation of this profession. An Advocate, who happens to be a tenant, should be a gentleman and shall vacate the premises within 30 days, if request is made by the landlord. If that happens, a Lawyer will get a house on rent even without a written agreement. Some of the Advocates are now-a-days looked at as Rowdies and third rate criminal by public by the conduct of similar to the one of the tenant in this case. It is painful to say that many of the Advocates are involved in the land grabbing and if the antecedent of the petitioner/ tenant is verified, he may also be one of the land grabbers. The tenant has scant regard for the orders of the Court and he has portrayed sadistic attitude.

With the above observations and directions, this Civil Miscellaneous Petition stands closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

- 1.The Chairman/President,
Bar Council of Tamilnadu and Puducherry,
Chennai.
- 2.The Secretary,
Bar Council of Tamilnadu and Puducherry,
Chennai.
- 3.Mr.C.K.Chandrasekar,
Bar Council of Tamilnadu and Puducherry,
Chennai.
- 4.The Secretary,
Madras High Court Advocate Association,
Chennai.
- 5.The Chairman/President,
Madras Bar Association,
Chennai.
- 6.The Secretary,
Women Lawyer's Association,
High Court, Madras.
- 7.The Sub Judge,
Ranipet.
- 8.The Principal District Munsif,
Vellore.
- 9.The Principal Subordinate Judge,
Vellore.

Copy to

1. The Registrar General,
High Court, Madras.
- 2.The Section Officer,
'F' Section, High Court, Madras.

+2 cc to Mr.Venkatesh Mahadevan, Advocate Sr.5947

C.M.P.No.6514 of 2020
in
Tr.C.M.P.No.942 f 2019

gj[co]
srg 12/02/2021