

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.3759 of 2016
and C.M.P.No.19110 of 2016

U.N.Radhakrishnan ... Petitioner/Tenant

Vs.

K.Shankaranarayanan ... Respondent/Landlord

PRAYER : The Civil Revision Petition filed under Section 115 of C.P.C. against the fair and decreetal order dated 13.07.2016 made in E.A.No.80 of 2014 in E.P.No.86 of 2012 in R.C.O.P.No.273 of 2008 on the file of the learned Principal District Munsif Court, Coimbatore.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.C.Ravichandran

ORDER

(Heard through video conferencing)

This Civil Revision Petition has been filed praying to set aside the fair and decreetal order dated 13.07.2016 made in E.A.No.80 of 2014 in E.P.No.86 of

2012 in R.C.O.P.No.273 of 2008 on the file of the learned Principal District Munsif Court, Coimbatore.

2. Arguments of both sides counsel heard.

3. The petition in E.A.80 of 2014 was filed by the Petitioner in order to stay the execution proceedings of the *exparte* eviction order passed in R.C.O.P.No.273 of 2008.

4. It is submitted by the learned counsel for the petitioner that the petitioner has filed a petition to set aside the *exparte* order in time but it was misplaced by the Court even before it got numbered. A report has been called for in this connection from the Executing Court as early as on 21.08.2018. But it is not known whether the said order has been communicated to the Lower Court till now. If there are any lapses on the part of the officials in carrying out the orders of the Court, that part of the matter has to be dealt only on the administration side of the Court.

5. Now coming to the merits of this petition, it is submitted by the learned counsel for the respondent that the petitioner/tenant has deserted the premises

but he continues to conducting these proceedings for the reasons best known to him. Even after a lapse of 10 years from the date of filing of the alleged *exparte* order set aside petition, this Civil revision petitioner has not genuinely taken any steps to reconstruct the records which is alleged to have been misplaced by the court.

6. The learned Executing Judge has observed that the petitioner did not show any proof to show that he has filed any petition for setting aside the *exparte* petition as alleged by him and the records of the Court also did not disclose any such details.

7. Even though the *exparte* order was passed on 06.01.2011, the petition to stay the executing proceedings has been filed only in the year 2014. If the petitioner/tenant really intended to set aside the *exparte* order by filing a proper application, he would not have waited until the execution proceedings have been initiated. He has filed the petition to stay the proceedings by alleging that the petition to set aside the *exparte* order was misplaced by the court. So the conduct of the civil revision petitioner would show that he had no other intention except to dilate the proceedings than to set aside the decree.

R.N.MANJULA,J.

Sni

8. The learned counsel for the respondent would submit that all other tenants in the property have already vacated and the property is also in a debilitated condition. So nothing survives in this matter now.

In the result, this Civil Revision Petition is dismissed. No costs. Connected civil miscellaneous petition in C.M.P.No.19110 of 2016 is closed.

19.04.2021

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

Sni

To

1.The Principal District Munsif Court,
Coimbatore.

2.The Section Officer,
V.R.Section,
High Court, Madras.

C.R.P.(NPD).No.3759 of 2016