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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP NO.2684 OF 2021

AND

CMP NO.19774 OF 2021

C.R.Naveen

...Petitioner

Vs

1.Mohammed Anwar
2.Saida Begum
3.Mohammed Irshad
4.Mohammed Ismail
5.Mohammed Akshar
6.V.P.Abrar
7.V.P.Asrar
8.V.P.Izhar
9.V.P.Ammar

...Respondents

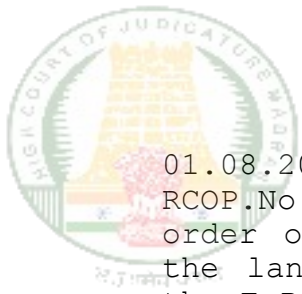
Prayer : Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the Fair and Decreetal Order of the Additional District Munsif Court, Vellore, Vellore District against E.A.327 of 2019 in E.P.Nil/2019 in RCOP.No.32 of 2012 dated 01.04.2021.

For Petitioner : Mr.K.Sivasubramanian
for Mr.T.M.Hariharan

O R D E R

This revision has been filed against the order of the learned Rent Controller/Principal District Munsif, Vellore made in E.A.No.327 of 2019 dated 01.04.2021. The said application was filed by the respondents herein seeking to bring on record the LR's of the deceased 2nd petitioner in the execution proceedings.

2.The execution proceedings have been filed by the decree holders/landlords seeking execution of the order of eviction passed by the Rent Controller in RCOP.No.32 of 2012 dated



01.08.2019. The said RCOP was heard along with another RCOP.No.18 of 2012 filed by the tenant under Section 8(5). An order of eviction came to be passed on 01.08.2019. Thereafter, the landlords sought to execute the said order and along with the E.P. they filed the instant application in EA.No.327 of 2019 seeking to bring on record the petitioners 7 to 10 as the LRs of the deceased second petitioner. This application was resisted contending that the second petitioner had died even during the pendency of the RCOP on 20.07.2019 and therefore, the petition to bring on record must have been filed in the original proceeding itself and not in execution. The learned District Munsif rejected the defence and allowed the application.

3.I have heard Mr.Sivasubramanian, learned counsel appearing for the petitioner.

4.Mr.Sivasubramanian would contend that since the Rent Control Original Petition was disposed of only on 01.08.2019 and the second petitioner therein died on 20.07.2019 itself, the petition to bring on record the LRs brought to have been filed in the original proceedings itself and it cannot be filed before the Executing Court. I am unable to concur with the submissions of the learned counsel for two reasons.

5.Firstly, it is seen from the records that the Original Petitions were heard and orders were reserved on 11.07.2019. The second petitioner admittedly died on 20.07.2019, i.e., after the orders were reserved in the Rent Control Original Petition. Though the provisions of the Code of Civil Procedure would not strictly apply, the principles therein would apply to the Rent Control Proceedings also.

6.Order 22 Rule 6 provides that the proceedings will not abate by reason of the death of either party after hearing. The death of the party was after the hearing and after orders were reserved. Therefore, there is no question of abatement Rule 6 goes a step further and provides that, the Court is empowered to pronounce judgment notwithstanding the death and it shall have the same force and effect as if it had been pronounced before the death took place. Therefore, the orders of eviction are perfectly valid. Since the application to implead the legal heirs has been filed along with the Execution Petition, the legal heirs are entitled to execute the orders of eviction.

7.Secondly, an order passed in favour of a dead person has been held to be valid. If an order passed in favour of a dead person is valid, then it can be executed by the legal representatives. That is precisely what has been allowed by the Court. Hence, I do not see any reason to interfere with the order of the Executing Court. The revision fails and it is



accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

vs

To:

The Additional District Munsif,
Vellore, Vellore District.

+1cc to M/s.T.M.Hariharan, Advocate Sr.No.65161

CRP No.2684 of 2021
and
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GP (CO)
RVM(09/02/2022)